4–5–01 Thursday
Vol. 66 No. 66 April 5, 2001
Pages 18035–18184

Federal Register

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $638, or $697 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $253. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $9.00 for each issue, or $9.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche **202–512–1800**
Assistance with public subscriptions **512–1806**
General online information **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche **512–1800**
Assistance with public single copies **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche **523–5243**
Assistance with Federal agency subscriptions **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: Tuesday, April 17, 2001 at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 66, No. 66

Thursday, April 5, 2001

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 66, No. 66
Thursday, April 5, 2001

Presidential Documents

Title 3—

The President

Proclamation 7420 of April 2, 2001

Pan American Day and Pan American Week, 2001

By the President of the United States of America

A Proclamation

This year on Pan American Day and during Pan American Week, the nations of the Americas celebrate the progress we have made toward our collective goal of a hemisphere united in freedom and democracy.

The United States and our neighboring countries in the Western Hemisphere have a long history of cooperation. Simon Bolivar first convened the Congress of Panama in 1826 with the intention of creating an association of states in the hemisphere. In 1890, a Pan American conference established the International Union of American Republics. The Union eventually became the Organization of American States (OAS), which continues to faith fully serve its member states. The OAS charter, in affirming the shared commitment, states that ''the true significance of American solidarity and good neighborliness can only mean the consolidation . . . of a system of individual liberty and social justice based on respect for the essential rights of man.''

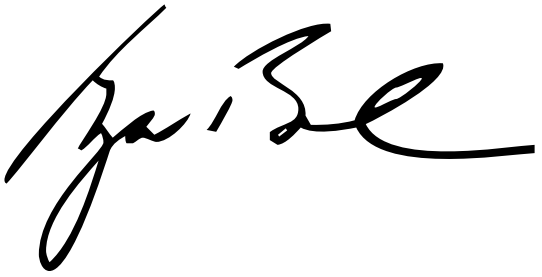
Today, we remain united through mutual interests and the hope for a better future for our people. This month I will join the democratically elected leaders of the hemisphere in Quebec City for the third Summit of the Americas. At this conference, we will build on efforts at previous Summits to promote our shared objectives of representative democracy, free trade, and using the power of free markets to better the lives of the poor. We will also build on our mutual interest in encouraging respect for human rights and improving relations among all the countries of the hemisphere.

Even with our significant progress, however, challenges remain. Cuba is the only country in the hemisphere that will be missing from the Quebec Summit. It is my sincere hope that our neighbor will soon rejoin the fraternity of democracies and that the Cuban people will again know freedom.

During Pan American Week and the Summit of the Americas, we reflect on and renew our common dedication to ensuring that the benefits of development are broadly shared. We also look forward to building even closer relationships among our countries for the sake of future generations. We have a responsibility to leave our children a hemisphere that honors the commitment of our predecessors, strengthening bonds that connect us as nations and as people. We want to make this the Century of the Americas.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 14, 2001, as Pan American Day and April 8 through April 14, 2001, as Pan American Week. I call upon all the people of the United States to observe this day and week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of April, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–8506
Filed 3–4–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 66, No. 66
Thursday, April 5, 2001

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1701

RIN 2550–AA15

Assessments

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight is issuing a final regulation setting forth its policy and procedures with respect to the annual assessment of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation as provided by statute.

EFFECTIVE DATE: The effective date of this regulation is May 7, 2001.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, telephone (202) 414–3804; or Isabella W. Sammons, Associate General Counsel, telephone (202) 414–3790, (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, entitled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Act), established OFHEO as an independent office within the Department of Housing and Urban Development to ensure that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) are capitalized adequately and operate safely and in compliance with applicable laws, rules and regulations.

Section 1316 of the Act (12 U.S.C. 4516) provides that OFHEO may establish and collect annual assessments from the Enterprises. OFHEO has been assessing the Enterprises pursuant to procedures developed under section 1316. OFHEO recently published a proposed regulation for comment to spell out and clarify its policies and procedures with respect to such assessments at 65 FR 81768 (December 27, 2000).

Comments

In response to the proposed regulation, OFHEO received comments from Freddie Mac and Fannie Mae, as follows:

Adequately Capitalized (§ 1701.2(b))

One Enterprise suggested a technical change to the proposed definition of the term ''adequately capitalized.'' OFHEO agrees that such change will clarify the definition and accordingly modifies § 1701.2(b) to read:

Adequately capitalized means the adequately capitalized capital classification under section 1364 of the Act (12 U.S.C. 4614).

Enterprise (§ 1701.2(d))

One Enterprise suggested a revision to the definition of the term ''Enterprise'' to include also a definition of the term ''Enterprises.'' OFHEO agrees that such a technical change would be appropriate and has modified § 1701.2(d) of the proposed regulation to read:

(d) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term ''Enterprises'' means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Surplus Funds (§ 1701.2(e))

In connection with a comment on ''Increase in Semiannual Payments,'' § 1701.4, discussed below, one Enterprise suggested that the regulation clarify that in calculating the following year's assessment, OFHEO will credit any surplus funds that were previously collected pursuant to § 1701.4 in addition to those surplus funds collected pursuant to § 1701.3. OFHEO agrees that this clarification is best accomplished by a technical modification of the definition of the term ''surplus funds,'' as follows:

(e) *Surplus funds* means funds that are not obligated as of September 30 of each fiscal year that were collected from any Enterprise pursuant to § 1701.3 or § 1701.4.

Total Assets (§ 1701.2(f))

Section 1701.2(f) of the proposed regulation defines the term ''total assets.'' Both Enterprises suggested that the definition incorporate by reference the methodology applied under the OFHEO minimum capital regulation at 12 CFR part 1750, rather than describe such methodology in detail. OFHEO agrees with the comment to incorporate 12 CFR part 1750 by reference and accordingly modifies § 1701.2(f) to read:

(f) *Total assets* means the sum, as of the most recent June quarterly minimum capital report of the Enterprise, of the amounts of the following assets that are used to calculate the quarterly minimum capital requirement of the Enterprise under 12 CFR part 1750:

(1) On-balance sheet assets;

(2) Off-balance sheet mortgage-backed securities; and

(3) Other off-balance sheet obligations.

One Enterprise suggested that OFHEO calculate the allocation of the annual assessment semiannually rather than annually. If this suggestion were accepted, the definition of the term ''total assets'' would require additional modification. As discussed more fully below under ''Allocation and Proportional Share,'' § 1701.3(b), OFHEO has rejected the recommendation and determined not to calculate the annual assessment semiannually; therefore, additional modification of the definition of the term ''total assets'' is not required.

Establishment of Assessment (§ 1701.3(a))

Section 1701.3(a) of the proposed regulation recites the statutory bases of the authority of the Director to collect the annual assessment from the Enterprises. One Enterprise recommended that OFHEO reference the narrow statutory language of 12 U.S.C. 4516(a) (section 4516(a)), rather than the amplifying statutory language of 12 U.S.C. 4516(f) (section 4516(f)), in determining the amount of the assessment that may be collected.

Section 4516(a) provides that the Director may collect an annual assessment ''in an amount not exceeding the amount sufficient to

provide for reasonable costs and expenses of [OFHEO], including the expenses of any examinations under [12 U.S.C. 4517].'' In further delineating the authority of OFHEO, section 4516(f) provides more broadly that the amount of the assessment collected may be used for ''carrying out the responsibilities of the Director relating to the enterprises'' and ''necessary administrative and nonadministrative expenses of [OFHEO] to carry out the purposes of [the Act].'' The narrow language of section 4516(a) is not reasonably to be read to restrict the amount of funds that may be collected to an amount arguably less than contemplated under section 4516(f). It would be inconsistent with a reading of the Act, as a whole, to set forth in the regulation restrictions on the collection of funds that are greater than the restrictions on the use of such funds after they are collected. OFHEO, therefore, has determined to reject and not to make the recommended modification. While referring only to examination expenses, the non-exclusive language of the law presumably contemplates the use of the authorized assessment to meet all costs and expenses of the agency.

Allocation and Proportional Share (§ 1701.3(b))

One Enterprise suggested that OFHEO calculate the proportional share of the annual assessment for each Enterprise semiannually rather than annually. The Enterprise suggested that it would be more equitable to the Enterprise to have a subsequent recalculation of its proportional share because the total assets of the Enterprises may vary during any year.

There is, however, no overriding reason to depart from the statutory scheme that clearly contemplates that the proportional share to be paid by each Enterprise is to be calculated on an annual basis. Therefore, OFHEO has determined to reject and not to make the suggested modification to calculate the proportional share semiannually.

Timing of Payment (§ 1701.3(c))

One Enterprise pointed out that proposed § 1701.3(c) mistakenly contains inapplicable references to other sections of the proposed regulation. Section 1701.3(c)(1) is accordingly revised to correct and clarify which references are applicable.

Surplus Funds (§ 1701.3(d))

One Enterprise suggested that proposed § 1701.3(d) be modified to clarify that surplus funds be credited fully to the first semiannual assessment payment. Section 1316(d) of the Act (12 U.S.C. 4516(d)) requires that surplus funds ''be credited to the assessment to be collected from the enterprise for the following year,'' without specifying to which semiannual payment such surplus funds must be credited. OFHEO cannot determine the amount, if any, of surplus funds until about mid-October; therefore, OFHEO cannot credit the surplus funds to the first semiannual payment due on or before October 1, but rather credits the surplus funds to the second semiannual payment due on or before April 1. Consequently, OFHEO cannot adopt the suggestion that would require it to credit surplus funds to the first semiannual payment. Where OFHEO is operating under one or more continuing resolutions and does not receive its full appropriation until later in the fiscal year, OFHEO may be able to determine the amount of surplus funds before the first full semiannual payment is made. In such a case, OFHEO has and will continue to credit the surplus funds to the first full semiannual payment.

The Enterprise also suggested that, in any instance when OFHEO determines that there was a surplus for the prior year after the first semiannual payment has been made, OFHEO immediately return such surplus to the Enterprises, *i.e.,* refund the overpayment of the first semiannual payment. OFHEO has determined not to adopt this suggestion because section 1316(d) of the Act (12 U.S.C. 4516(d)) requires that surplus funds be credited to the next annual assessment, not refunded as an overpayment.

Increase in semiannual payments (§ 1701.4)

Section 1701.4 of the proposed regulation sets forth the statutory authority of OFHEO to increase the semiannual payment of an Enterprise that is not classified as adequately capitalized. Both Enterprises suggested that this section include the regulatory purposes for which such an increase may be used, as provided in 12 U.S.C. 4516(c). OFHEO agrees and modifies § 1701.4 to read:

> The Director, in his or her discretion, may increase any semiannual payment to be collected under § 1701.3 from an Enterprise that is not classified as adequately capitalized as necessary to pay additional estimated costs of regulation of the Enterprise.

Notice and Review (§ 1701.5)

Section 1701.5 of the proposed regulation requires that the Director provide written notice of the annual assessment, the semiannual payments, and any partial payments to be collected from each Enterprise. It also provides that the Enterprises receive notice of any changes to the assessment procedures that the Director, in his or her sole discretion, deems necessary under the circumstances.

One Enterprise requested that actual notice of any semiannual payment be made at least five business days prior to the due date. A minimum five-day-notice, the Enterprise asserted, is needed for the Enterprise to review the calculation, process the notice of payment, and make the payment in a timely manner. OFHEO is not required by statute to provide a minimum notice period for any semiannual payment and believes that it would be inappropriate to bind itself to a specific notice period. OFHEO, nevertheless, will continue to provide the Enterprises with ample notice of the actual semiannual payment.

The Enterprise also suggested that any change to current assessment procedures would require notice and comment rulemaking under the Administrative Procedure Act (APA). To the extent, however, that a particular change is not subject to the APA notice and comment procedures, the Enterprise further suggested that notice of such change should be given at least 30 days in advance of the implementation of the change in order for the Enterprises to review, understand, prepare for, and respond to the change.

OFHEO does not agree that every change to the assessment procedures would require notice and comment rulemaking under the APA. Furthermore, OFHEO has determined not to adopt the 30-days advance notice suggested by the Enterprise because to do so would unnecessarily restrict the statutory authority of OFHEO to assess and carry out its statutory duties and responsibilities with regard to the Enterprises and the mortgage market.

Delinquent Payment (§ 1701.6)

Section 1701.6(a) of the proposed regulation provides that the Director may assess interest and penalties on any delinquent payment of any assessment under this part in accordance with 31 U.S.C. 3717 (interest and penalties on claims) and 12 CFR part 1704 (debt collection).

One Enterprise suggested that § 1701.6(a) be modified to provide details as to how the interest on delinquent payments is to be calculated pursuant guidance published by the Department of the Treasury (Treasury guidance) as required by 31 U.S.C. 3717 and 12 CFR part 1704. OFHEO does not agree that providing such detail in § 1701.6(a) is necessary or appropriate.

OFHEO is required to follow the Treasury guidance regardless whether the details of such guidance are spelled out in the regulation. By not spelling out the details, OFHEO avoids the need to revise the regulation if the Treasury guidance were to be revised.

In addition to the modifications discussed above, which OFHEO considers to be nonsubstantive, OFHEO makes minor editorial modifications to the proposed regulation. Accordingly, OFHEO has determined to issue the proposed regulation, as modified, as a final regulation.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The final regulation is not classified as a significant rule under Executive Order 12866 because it will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this final regulation has not been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the final regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the regulation, as herein adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1701

Government Sponsored Enterprises, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, OFHEO adds 12 CFR part 1701 as follows:

PART 1701—ASSESSMENTS

Sec.

Authority: 12 U.S.C. 4513(b)(1) and 12 U.S.C. 4516.

§ 1701.1 Purpose.

This part sets forth the policy and procedures of OFHEO with respect to the establishment and collection of the annual assessments of the Enterprises under section 1316 of the Act (12 U.S.C. 4516).

§ 1701.2 Definitions.

For purposes of this part, the term—

(a) *Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, section 1301, Oct. 28, 1992, 106 Stat. 3672, 3941–4012 (1993) (12 U.S.C. 4501 *et seq.*).

(b) *Adequately capitalized* means the adequately capitalized capital classification under section 1364 of the Act (12 U.S.C. 4614).

(c) *Director* means the Director of the Office of Federal Housing Enterprise Oversight or his or her designee.

(d) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term ''Enterprises'' means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(e) *Surplus funds* means funds that are not obligated as of September 30 of each fiscal year that were collected from any Enterprise pursuant to § 1701.3 or § 1701.4.

(f) *Total assets* means the sum, as of the most recent June quarterly minimum capital report of the Enterprise, of the amounts of the following assets that are used to calculate the quarterly minimum capital requirement of the Enterprise under 12 CFR part 1750:

(1) On-balance sheet assets;

(2) Off-balance sheet mortgage-backed securities; and

(3) Other off-balance sheet obligations.

(g) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

§ 1701.3 Annual assessment.

(a) *Establishment of assessment.* The Director may, to the extent provided in appropriation acts, establish and collect from the Enterprises an annual assessment for each fiscal year, as allocated under paragraph (b) of this section. The amount of the annual assessment shall not exceed the estimated amount to be sufficient to provide for the necessary administrative and non-administrative expenses to carry out the responsibilities of the Director relating to the Enterprises and to carry out the purposes of the Act.

(b) *Allocation and proportional share.* The annual assessment established under paragraph (a) of this section shall be allocated between the Enterprises. Each Enterprise shall pay a proportional share of the annual assessment that bears the same ratio to the total annual assessment as the total assets of each Enterprise bears to the total assets of both Enterprises.

(c) *Timing and amount of semiannual payment.* (1) Each Enterprise shall pay on or before October 1 and April 1 of each fiscal year an amount of one-half of its proportional share of the annual assessment, except:

(i) As provided in paragraph (c)(2) of this section;

(ii) To the extent surplus funds are credited under paragraph (d) of this section; and

(iii) To the extent a semiannual payment is increased under § 1701.4.

(2) If OFHEO is operating under a continuing appropriation as of October 1 of any year, each Enterprise shall pay, on such date as determined by the Director, an amount calculated by applying the annual assessment proportion calculated under paragraph (b) of this section to the amount authorized for expenditure. When OFHEO receives a regular appropriation, the amount of the allocation share of the annual assessment collected from each Enterprise shall be reduced by any partial payments made by each Enterprise in connection with any continuing appropriations.

(d) *Surplus funds.* Surplus funds shall be credited to the annual assessment by reducing the amount collected by the amount of the surplus funds. Surplus funds shall be allocated in the same proportion in which they were collected, except as determined by the Director.

§ 1701.4 Increase in semiannual payment.

The Director, in his or her discretion, may increase any semiannual payment to be collected under § 1701.3 from an Enterprise that is not classified as adequately capitalized as necessary to pay additional estimated costs of regulation of the Enterprise.

§ 1701.5 Notice and review.

(a) *Written notice.* The Director shall provide each Enterprise with written notice of the annual assessment, the semiannual payments and any partial payments to be collected under this part. In addition, the Director shall provide each Enterprise with written notice of any changes in the assessment procedures that the Director, in his or her sole discretion, deems necessary under the circumstances.

(b) *Request for review.* At the written request of an Enterprise, the Director, in his or her discretion, may review the calculation of the proportional share of the annual assessment, the semiannual payments, and any partial payments to be collected under this part. The determination of the Director is final. Except as provided by the Director, review by the Director does not suspend the requirement that the Enterprise make the semiannual payment or partial payment on or before the date it is due.

§ 1701.6 Delinquent payment.

(a) *Interest and penalties.* The Director may assess interest and penalties on any delinquent semiannual payment or partial payment collected under this part in accordance with 31 U.S.C. 3717 (interest and penalty on claims) and 12 CFR part 1704 (debt collection). The Director may waive interest and penalties in his or her discretion.

(b) *Transfer to general fund.* Any interest and penalties collected under this section shall be transferred to the general fund of the Treasury of the United States.

§ 1701.7 Enforcement of payment.

Notwithstanding § 1701.6, the Director may enforce the payment of any assessment under this part pursuant to the authorities of sections 1371 (12 U.S.C. 4631) (cease-and-desist proceedings), 1372 (12 U.S.C. 4632) (temporary cease-and-desist orders), and 1376 (12 U.S.C. 4636) (civil money penalties) of the Act.

§ 1701.8 Deposit in fund.

OFHEO shall deposit any annual assessment collected under this part in the Federal Housing Enterprise Oversight Fund established in the Treasury of the United States.

Dated: April 2, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–8424 Filed 4–4–01; 8:45 am]

BILLING CODE 4220–11–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1780

RIN 2550–AA16

Rules of Practice and Procedure

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing a final rule amending OFHEO's rules governing administrative enforcement proceedings. The amendments summarize OFHEO's statutory authority to issue cease and desist orders and to impose various corrective and remedial sanctions, including, among other things, civil money penalties, against the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), as well as their respective executive officers and directors, in appropriate cases. By describing the grounds on which such actions might be instituted, and providing examples of the terms and conditions the agency might impose, OFHEO seeks to ensure greater transparency to and public awareness of the agency's supervisory regime and the safeguards affecting Freddie Mac and Fannie Mae.

EFFECTIVE DATE: May 7, 2001.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, (202) 414–6924, Jamey Basham, Counsel (202) 414–8906 (not toll-free numbers), 1700 G Street NW, Fourth Floor, Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is: (800) 877–8339 (TDD *only*).

SUPPLEMENTARY INFORMATION:

Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, entitled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Act), established OFHEO. OFHEO is an independent office within the Department of Housing and Urban Development (HUD) with responsibility for ensuring that Fannie Mae and Freddie Mac (collectively, the Enterprises) are adequately capitalized and operate safely and in conformity to the requirements of applicable statutes, rules and regulations, including their respective charter acts. The Enterprises are Federal instrumentalities established under Federal law to effect various broad public policy purposes.[1] These include providing liquidity to the residential mortgage market and promoting the availability of mortgage credit benefiting low-and moderate-income families and areas that are underserved by lending institutions.

The enumerated statutory authorities of the Director explicitly include the authority to issue rules to carry out the duties of the Director,[2] as well as other broad supervisory powers similar to those of the Federal bank regulatory agencies. OFHEO is empowered, among other things, to conduct examinations of the Enterprises; to require the Enterprises to provide reports; [3] to establish capital standards for the Enterprises; [4] and, in appropriate circumstances, to take prompt corrective action against an Enterprise that fails to remain adequately capitalized, including but not limited to possible imposition of a conservatorship.[5]

In addition, the Act grants OFHEO administrative enforcement authority similar to that granted by Congress to the Federal bank regulatory agencies, including the power to issue temporary and permanent cease and desist orders to an Enterprise or its executive officers or directors, and to impose sanctions, including civil money penalties when appropriate.[6] Prior to issuing a cease and desist order, OFHEO is to conduct a hearing on the record and provide the subject of an order with notice and the opportunity to participate in such hearings.[7] Prior to imposing civil money penalties, OFHEO is to provide notice and the opportunity for a hearing to the persons subject to the penalties.[8] Part 1780 of OFHEO's rules and regulations currently sets out the procedural rules under which such notices are provided and hearings conducted.

[1] *See* Federal Home Loan Mortage Corporation Act, 12 U.S.C. 1451 *et seq.*; Federal National Mortgage Association Charter Act, 12 U.S.C. 1716 *et seq.*; Act at 12 U.S.C. 4561–67, 4562 note.

[2] 12 U.S.C. 4513(b)(1).

[3] 12 U.S.C. 4514, 4517, 1456(c), 1723a(k).

[4] 12 U.S.C. 4611–4614.

[5] 12 U.S.C. 4615–4623.

[6] 12 U.S.C. 4631–4641.

[7] 12 U.S.C. 4631(c), 4633.

[8] 12 U.S.C. 4636(c), 4633.

On December 27, 2000, OFHEO issued a Notice of Proposed Rulemaking (NPR), in which OFHEO proposed to clarify the agency's enforcement rules at part 1780 by describing briefly various circumstances in which OFHEO may initiate enforcement actions, the procedures involved, as well as the types of remedies and sanctions OFHEO may impose through a cease and desist order or civil money penalty. 65 FR 81,775. OFHEO received two comments on the NPR, one from each of the Enterprises. Copies of the comments are posted on the OFHEO web site at *http://www.ofheo.gov.* After careful consideration of the comments received, as discussed below, OFHEO has decided to adopt the proposed rule as a final rule, without substantive change.

Comments on the Proposed Rule

OFHEO received comments from Fannie Mae and Freddie Mac. In general, Fannie Mae largely concurred with the goals and language of the proposed rule, and Freddie Mac endorsed OFHEO's efforts to bring greater transparency to OFHEO's supervisory oversight and standards. However, both Enterprises lodged two broad objections to the proposed rule, as discussed below.

First, both Enterprises assert that § 1780.1(b) of the proposed rule, summarizing OFHEO's statutory authority to institute cease and desist proceedings under 12 U.S.C. 4631, should be expanded to address the extent to which the Department of Housing and Urban Development (HUD) holds authority over the Enterprises under Part 2 of the 1992 Act (12 U.S.C. 4541–4589).

OFHEO has determined to issue § 1780.1(b) without change. The language of § 1780.1(b) accurately recites OFHEO's authority under 12 U.S.C. 4631. In connection with their comments seeking changes to the rule to address this ancillary matter of intragovernmental coordination and cooperation, the Enterprises both stressed a different section of the 1992 Act, 12 U.S.C. 4513. Section 4513(b) enumerates certain authorities under the 1992 Act that are held exclusively by the Director of OFHEO. Section 4513(c) also provides that determinations, actions, and functions of the Director not referred to in section 4513(b) are subject to the review and approval of the Secretary of HUD. Section 4513(c) is outside the scope of part 1780. Whenever the Director's determination to issue a notice of charges under section 4631 constitutes, within the meaning of section 4513(c), an ''action * * * of the Director not referred to in subsection [4513(b)],'' the Director will obtain the ''review and approval of the Secretary'' of HUD, as contemplated by section 4513(c). Part 1780 more narrowly addresses, however, the procedures by which the Director's determinations set forth in a notice of charges are to be adjudicated. The scope of part 1780 does not extend to OFHEO's procedures before a notice of charges has been issued by the Director.

Second, both Enterprises object to a portion of § 1780.1(b)(1)(iv) of the proposed rule that describes OFHEO's authority under 12 U.S.C. 4631 to institute a cease and desist action on the basis of unsafe or unsound conduct by an Enterprise or an executive officer or director thereof or based on the unsound condition of an Enterprise. In their comments, the Enterprises objected to this provision on a twofold basis.

Both Enterprises asserted that section 4631 does not contain language authorizing OFHEO to institute a cease and desist proceeding on the basis of unsafe or unsound conduct. To the contrary, as set forth in the preamble of the proposed rule, the 1992 Act necessarily and explicitly authorizes OFHEO to pursue cease and desist proceedings on the basis of unsafe and unsound practices or conditions. In particular, section 4631(a)(3)(A) authorizes OFHEO to issue a notice of charges for violations of the 1992 Act. The 1992 Act subjects the Enterprises to an overarching obligation to conduct their operations in a manner that maintains the safe and sound condition of the Enterprise, the parameters of which may be determined by OFHEO, as the safety and soundness regulator, in its supervisory discretion.

As both Enterprises otherwise recognized in their comments, Congress constituted OFHEO with broad authorities, described above, sufficient to empower the agency to serve as a strong financial institution regulatory agency with the responsibility of ensuring the Enterprises are adequately capitalized and operate safely (*i.e.,* in a safe and sound manner and in compliance with applicable laws, rules, and regulations). The commenters assert, however, that OFHEO's reading of the 1992 Act, and particularly of section 4631(a)(3)(A), does not comport with congressional intent, and that, in effect, Congress intentionally refrained from empowering OFHEO to compel a Enterprise to cease demonstrably unsafe and unsound conduct. The language of the 1992 Act makes clear that Congress constituted OFHEO as more than a mere advisory oversight body for the Enterprises on safety and soundness issues and concerns.

In addition, both Enterprises objected to the manner in which § 1780.1(b)(1)(iv) of the proposed rule describes an unsafe and unsound practice as conduct that is contrary to prudent standards of operation that might cause loss or damage to the Enterprise, or is likely to cause such loss or damage in the future if continued unabated. In their comments, both Enterprises cited to judicial precedents construing a provision of the Federal Deposit Insurance Act, 12 U.S.C. 1818(b), under which the Federal bank regulatory agencies may institute cease and desist proceedings to halt, among other things, ''unsafe or unsound practices.'' As noted by the Enterprises, some courts construing section 1818(b) suggest that the statute requires the practice in question to threaten the financial integrity of the institution.

Case law construing section 1818(b), however, is informative but not determinative of the scope of OFHEO's authority. Congress did not wholly import the bank regulatory framework or specific enforcement statutes into the 1992 Act, so enforcement standards applicable to thousands of insured banks under banking law do not necessarily serve as the sole foundation for the standards applying to the two Enterprises under the 1992 Act. Nevertheless, to the extent such case law arguably has a bearing on these issues, the language of § 1780.1(b)(1)(iv), as proposed, fairly describes judicial views of section 1818(b), under which an unsafe or unsound practice exists if the practice is deemed contrary to accepted standards of banking operations which might result in abnormal risk or loss to a banking institution or shareholder.[9] Moreover, the cases that suggest an unsafe or unsound practice must threaten the very financial integrity of an institution do not look at the unencumbered language of section 1818(b) or its legislative history. No reference to such a heightened standard is included in either section 1818(b) or its legislative history.

Taken in the full context of the 1992 Act and the responsibilities of OFHEO thereunder—both similar to and distinct from those of the Federal bank regulatory agencies—OFHEO's rule articulates a standard that comports with the intent of Congress and a robust safety and soundness regime. The 1992

[9] *See, e.g., Greene County Bank* v. *FDIC*, 92 F.3d 633 (8th Cir. 1996), *cert. denied*, 519 U.S. 1109 (1997); *Doolittle* v. *NCUA*, 992 F.2d 1531 (11th Cir. 1993), *cert. denied*, 516 U.S. 987 (1995); *Hoffman* v. *FDIC*, 912 F.2d 1172 (9th Cir. 1990).

Act, as interpreted in § 1780.1(b)(1)(iv) of the proposed rule, imposes upon the Enterprises an affirmative obligation to conduct their operations safely, that is, in a manner that reasonably maintains the safe and sound condition of the Enterprise.[10] The parameters of safety and soundness are to be determined by OFHEO, as the safety and soundness regulator, in its supervisory discretion. If an Enterprise fails to operate within such boundaries, it violates the 1992 Act for purposes of 12 U.S.C. 4631. Viewed in this light, judicial precedents that address the setting of standards by a financial safety and soundness regulator, based on safety and soundness concerns, are instructive. The courts in these cases have long acknowledged that safety and soundness regulators may take action against practices that the agency, in its expert judgment, determines are likely to be detrimental to the institution or the industry.[11] This case law does not impose standards limiting the regulator's authority to those practices having dire consequences for the institution; the 1992 Act at several points contemplates action long before the Enterprises reach such critical stages of corporate survival.

It is also important to note that, in adopting the final version of 12 U.S.C. § 4631, Congress abandoned language in Senate Bill S. 2733, the Senate version of the legislation, which would have prohibited OFHEO from taking any cease and desist action against an adequately capitalized Enterprise unless the conduct or violation in question threatened to cause a significant depletion of the Enterprise's capital. S. Rep. No. 102–282, 102nd Cong., 2nd Sess. 25–26, 120 (1992). That Congress considered and rejected a limiting standard for cease and desist proceedings counsels against engrafting one by regulation as the Enterprises suggest.

Each Enterprise expressed concerns about the practical implications of § 1780.1(b)(1)(iv) of the proposed rule and apprehension that OFHEO might use the rule to micro-manage the Enterprises. The Enterprises posit that, in the absence of an explicit requirement that the conduct in question threaten the very integrity of the Enterprise, the standard in § 1780.1(b)(1)(iv) would permit OFHEO to take action against any business activity, given that every business activity involves some element of risk. To the contrary, the rule does not assert unfettered authority for OFHEO to impose its business judgment on the Enterprises, as the comments suggest. As § 1780.1(b)(1)(iv) states, the challenged conduct must, in addition to causing loss or being likely to cause loss in the future, also be contrary to prudent standards of operation. Further, and as a practical matter, cease and desist proceedings are not resorted to by the agency routinely, and are comparatively protracted in nature and subject to immediate judicial review. Moreover, the standard reiterated in § 1780.1(b)(1)(iv) is that which OFHEO has employed in connection with its safety and soundness supervision of the Enterprise since OFHEO's inception. In light of these considerations and the due process attendant to OFHEO's enforcement proceedings, concerns about micro-management are misplaced. Under the enforcement process, OFHEO may not superimpose its business judgment upon the Enterprises; the safety and soundness of the Enterprise must be addressed by the agency on a case-specific basis.

As another matter, Freddie Mac's comments on the rule addressed proposed § 1780.1(c)(4)(xii). This subsection includes ''candor and cooperation after the fact'' in the list of factors that may be considered by OHFEO in determining the appropriateness and amount of civil money penalties. More particularly, Freddie Mac recommended clarifying that an Enterprise's decision to assert a legal privilege, such as the attorney-client privilege, would not adversely affect OFHEO's evaluation of the Enterprise's candor and cooperation. Freddie Mac asserted that without such a clarification, the proposed factor might dissuade an Enterprise from asserting its full legal privileges due to a perceived threat that larger civil money penalties would be imposed for doing so.

OFHEO has adopted § 1780.1(c)(4)(xii) without change. Section 4636(c)(2) of Title 12 enumerates various factors that the Director of OFHEO is to consider and allows the Director to consider ''any other factors that the Director may determine by regulation to be appropriate.'' OFHEO has determined to take the candor and cooperation of an Enterprise, executive officer, or director into account as a mitigating factor in assessing a civil money penalty. The language of § 1780.1(c)(4)(xii) includes no implication that an assertion of a valid legal privilege will be viewed as an aggravating circumstance resulting in to higher civil money penalty amounts. Similarly, it is the practice of the Federal bank regulatory agencies to consider the cooperation of regulated entities as a mitigating factor in determining civil money penalties.[12] The extent to which an Enterprise, executive officer, or director receives the benefit of this mitigating factor in the face of an assertion of a valid legal privilege is a case-specific issue. The degree of mitigation may depend in part upon whether the assertion is consistent with candor and cooperativeness meriting reduction in the amount of the penalty that is otherwise appropriate in light of the seriousness of the offense.

Final Rule

OFHEO is adopting the proposed rule as a final rule without substantive change. The text of the proposed rule and a description thereof are contained in OFHEO's NPR at 65 FR 81775 (December 27, 2000). OFHEO is making one technical change. The authority citation in the NPR inadvertently omitted the citation to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The final rule adds a citation for this act. OFHEO is also making one editorial change. Proposed § 1780.1(b)(1)(iv) included the wholly redundant phrase ''in the future'' which has been deleted from the final rule.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The final rule is not classified as a significant rule under Executive Order 12866 because it will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based Enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this proposed regulation has not been submitted to the Office of Management and Budget for review.

[10] As is discussed in the ''Background'' material above, OFHEO exercises exclusive authority for matters relating the the Enterprises' safety and soundness, and is vested with broad powers to that end. *See, e.g.,* 12 U.S.C. 4513(a), 4513(b)(5), 4517(a), and 4521(a)(2)–(3).

[11] *See, e.g., Independent Bankers Ass'n of America* v. *Heimann*, 613 F.2d 1164 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 823 (1980).

[12] *See, e.g.,* FDIC Manual of Examination Policies, Section 10.2 (CMP Matrix).

Unfunded Mandates Reform Act of 1995

This final rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. As a result, the proposed rule does not warrant the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the final regulation is not likely to have a significant economic impact on a substantial number of small business entities because the regulation only affects the Enterprises, their executive officers, and their directors.

Paperwork Reduction Act of 1995

This final rule contains no information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

List of Subjects in 12 CFR Part 1780

Administrative practice and procedure, Penalties.

Accordingly, for the reasons set out in the preamble, the Office of Federal Housing Enterprise Oversight amends 12 CFR part 1780 as follows:

PART 1780—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 1780 is revised to read as follows:

Authority: 12 U.S.C. 4501, 4513, 4517, 4521, 4631–4641, 28 U.S.C. 2461 note.

Subpart A—General Rules

2. Revise § 1780.1 to read as follows:

§ 1780.1 Scope.

(a) *Types of proceedings governed by these rules.* This part prescribes rules of practice and procedure applicable to the following adjudicatory proceedings:

(1) Cease-and-desist proceedings under sections 1371 and 1373, title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, entitled The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (1992 Act) (12 U.S.C. 4631 and 4633);

(2) Civil money penalty assessment proceedings under sections 1373 and 1376 of the 1992 Act (12 U.S.C. 4633 and 4636);

(3) Civil money penalty assessment proceedings under section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a; and

(4) Other adjudications required by statute to be determined on the record after opportunity for hearing, except to the extent otherwise provided for in the regulations specifically governing such an adjudication.

(b) *Cease and desist orders.* (1) Grounds for instituting proceedings. Sections 1371(a) and (b) of the 1992 Act specify when the Director of OFHEO may issue a notice of charges instituting cease and desist proceedings, to be conducted according to the procedural rules in this part. The Director may issue a notice of charges as described in § 1780.20 if the Director determines, or the Director has reasonable cause to believe that, an Enterprise or an executive officer or director thereof has engaged in, or it is about to engage in, any of the following conduct or violations:

(i) For an adequately capitalized Enterprise, any conduct which threatens to cause a significant depletion of the Enterprise's core capital; or for an Enterprise which is not in the adequately capitalized category, any conduct that is likely to result in a material depletion of the Enterprise's core capital;

(ii) Any conduct that may result in the issuance of a cease and desist order that requires an executive officer or director of an Enterprise to make restitution, provide reimbursement, indemnification or guarantee against loss to the Enterprise, where such person was either unjustly enriched or engaged in knowing misconduct likely to cause substantial loss to the Enterprise;

(iii) Any conduct that violates a written agreement entered into by an Enterprise with the Director; or

(iv) Any conduct that violates the 1992 Act, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 *et seq.*), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 *et seq.*), or any regulation, rule, or order under such Acts, or any unsafe and unsound practice (in that it is contrary to prudent standards of operation which might cause loss or damage to the Enterprise, or is likely to cause such loss or damage if continued unabated), or any unsafe and unsound condition, except that the Director may not enforce compliance with housing goals established under subpart B of part 2 of subtitle A of the 1992 Act (12 U.S.C. 4561 through 4567), with section 1336 or 1337 of the 1992 Act (12 U.S.C. 4566 or 4567), or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 4566 or 4567), or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e) or (f)).

(2) *Remedial provisions of cease and desist orders.* As provided by sections 1371(c) and (d) of the 1992 Act, a cease and desist order issued as set out in § 1780.55 may require the Enterprise, or an executive officer or director thereof, to refrain from engaging in conduct or violations specified in paragraphs (b)(1)(i) through (iv) of this section and/or require correction of an unsafe or unsound condition specified in paragraph (b)(1)(iv) of this section, as found by the Director, and may also require the Enterprise, an executive officer, or director thereof to take such action as the Director determines to be appropriate to correct or remedy the conditions resulting from such conduct or violation. This may include, but is not limited to, provisions to:

(i) Require the Enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(ii) Require the Enterprise to obtain new capital;

(iii) Restrict asset or liability growth of the Enterprise;

(iv) Require the Enterprise to dispose of any asset involved;

(v) Require the Enterprise to improve design or implementation of internal policies, compliance efforts, internal controls, risk measurement and limits, and management reporting systems;

(vi) Require the Enterprise to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director);

(vii) Require the Enterprise, an executive officer or director thereof to adhere to limits on activities or functions; or

(viii) Require the Enterprise to take such other action as the Director determines appropriate.

(3) *Restitution and indemnification by executive officers and directors.* As part of the affirmative relief described in paragraph (b)(2) of this section, section 1371(d)(1) of the 1992 Act provides that the Director may require an executive officer or director of an Enterprise to make restitution or reimbursement to the Enterprise, or to provide indemnification or guarantee against loss, to the extent such person was:

(i) Unjustly enriched in connection with the conduct or violation in question; or

(ii) Engaged in such conduct or violation knowingly, and such conduct or violation caused or would be likely to cause a substantial loss to the Enterprise.

(4) *Temporary cease and desist orders.* (i) Under sections 1372(a) and (b) of the 1992 Act, if the Director determines that any conduct or violation or threatened conduct or violation described in the notice of charges in cease and desist proceedings described under § 1780.20 is likely to cause insolvency, to cause significant depletion of core capital, or to cause other irreparable harm to an Enterprise before proceedings described in this part will be completed, the Director may issue a temporary cease and desist order. Such order may direct the Enterprise, executive officer or director thereof to refrain from the conduct or violation, and to take whatever affirmative action the Director determines to be appropriate to prevent or remedy such insolvency, depletion, or harm pending completion of such cease and desist proceedings.

(ii) In addition, section 1372(c) of the 1992 Act addresses cases in which the Director determines that the books and records of an Enterprise are so incomplete or inaccurate that the Director is unable through normal supervisory processes to determine either the financial condition of the Enterprise or the details or purpose of transactions that may have a material effect on the financial condition of the Enterprise. In connection with issuance of the notice of charges in cease and desist proceedings specified by § 1780.20, the Director may issue a temporary order directing the Enterprise to cease the activity or practice that gave rise, whether in whole or in part, to the incomplete or inaccurate state of the records, and may require the Enterprise to take affirmative action to make the records complete and accurate.

(c) *Civil money penalties.* (1) *First tier CMPs.* Section 1736 of the 1992 Act authorizes the Director to assess civil money penalties against an Enterprise, in proceedings to be conducted according to the procedural rules in this part. The Director may issue a notice of charges to an Enterprise, as described in § 1780.20, to impose money penalties of up to $5,000 (adjusted for inflation as described in § 1780.80) for each day that the Enterprise engages in conduct that violates:

(i) The 1992 Act, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any regulation, rule, or order under such Acts, except with regard to housing goals established under subpart B of part 2 of subtitle A of the 1992 Act, with section 1336 or 1337 of the 1992 Act, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

(ii) Any written agreement entered into by the Enterprise with the Director; or

(iii) Any permanent or temporary cease and desist order entered under sections 1371 or 1372 of the 1992 Act, or sections 1365 (12 U.S.C. 4615, setting out supervisory actions applicable to undercapitalized Enterprises) or 1366 (12 U.S.C. 4616, setting out supervisory actions applicable to significantly undercapitalized institutions) of the 1992 Act.

(2) *Second tier CMPs.* The Director may issue a notice of charges to an Enterprise to impose money penalties of up to $25,000 (adjusted for inflation as described in § 1780.80) for each day that the Enterprise engages in the following violation or conduct, or to an executive officer or director of an Enterprise to impose money penalties of up to $10,000 (adjusted for inflation as described in § 1780.80) for each day such person or persons engages in the following violation or conduct, if the Director finds that the violation or conduct was either part of a pattern of misconduct or involved recklessness and causes or is likely to cause a material loss to the Enterprise:

(i) Any violation described in paragraphs (c)(1)(i) through (iii) of this section; or

(ii) Any conduct that causes or is likely to cause a loss to the Enterprise.

(3) *Third tier CMPs.* The Director may issue a notice of charges to an Enterprise to impose money penalties of up to $1,000,000 (adjusted for inflation as described in § 1780.80) for each day that the Enterprise engages in a violation or conduct described in paragraphs (c)(2)(i) and (ii) of this section, or to an executive officer or director of an Enterprise to impose money penalties of up to $100,000 (adjusted for inflation as described in § 1780.80) for each day such person or persons engages in such violation or conduct described in paragraphs (c)(2)(i) and (ii) of this section, if the Director finds that the violation or conduct was knowing and caused or is likely to cause a substantial loss to the Enterprise.

(4) *Amount of CMPs.* In determining the amount of a civil money penalty within the range of penalties described in paragraphs (c)(1) through (3) of this section, the Director may fashion sanctions in any such amount as deemed to be appropriate taking into consideration such factors as:

(i) The gravity of the violation or conduct;

(ii) Any loss or risk of loss to the Enterprise;

(iii) Any benefits received;

(iv) Any attempts at concealment;

(v) Any history of prior violations or conduct;

(vi) Any related or unrelated previous supervisory actions;

(vii) Any injury to the public;

(viii) Deterrence of future violations or conduct;

(ix) The effect of the penalty on the safety and soundness of the Enterprise;

(x) Any circumstances of hardship upon an executive officer or director;

(xi) Promptness and effectiveness of any efforts to ameliorate the consequences of the violations or conduct; and

(xii) Candor and cooperation after the fact.

(d) *Coordination with other supervisory actions.* In addition to cease and desist and/or civil money penalty proceedings under this part, the 1992 Act grants the Director other authority to take supervisory action, including requiring mandatory and discretionary supervisory actions against an Enterprise that fails to remain adequately capitalized; appointment of a conservator for an Enterprise; entering into a written agreement the violation of which is actionable through proceedings under this part, or any other formal or informal agreement with an Enterprise as may be deemed by the Director to be appropriate. Under the 1992 Act, the selection of the form of supervisory action is within the Director's discretion, and the selection of one form of action or a combination of actions does not foreclose the Director from pursuing any other supervisory action.

(e) *Proceedings against affiliates.* Under subtitle C of the 1992 Act, the Director may institute proceedings as described under this part against an

affiliate of an Enterprise as well as an executive officer or director of such affiliate. An entity is affiliated with an Enterprise if the entity controls the Enterprise, is controlled by the Enterprise, or is under common control with the Enterprise. For purposes of this part, control means the ability to exercise a controlling influence over the management and policies of the entity or Enterprise, whether it be by ownership of or the power to vote a concentration of any class of voting securities, the ability to elect or appoint members of the board of directors or officers of the entity, or otherwise.

(f) *Public nature of proceedings.* As described in § 1780.6 of this part, all hearings shall be open to the public unless the Director in his discretion determines to the contrary based on public interest. The Director shall also make final orders available to the public, as well as modifications to or terminations thereof, except that the Director may determine in writing to delay public disclosure of such final orders for a reasonable time if immediate disclosure would seriously threaten the financial health or security of the Enterprise.

Dated: April 2, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–8425 Filed 4–4–01; 8:45 am]

BILLING CODE 4220–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–117–AD; Amendment 39–12167; AD 2001–07–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301, –321, –322, –341, and –342 Series Airplanes; and Model A340–211, –212, –213, –311, –312, and –313 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A330 and A340 series airplanes. This action requires a one-time inspection for cracks on the attachment holes of the doorstop fitting on the aft passenger/crew doors; repair, if necessary; and modification of the attachment holes. This action is necessary to detect and prevent fatigue cracking of the attachment holes for doorstop fitting number 5, which could result in reduced structural integrity of the door frames. This action is intended to address the identified unsafe condition.

DATES: Effective April 20, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 20, 2001.

Comments for inclusion in the Rules Docket must be received on or before May 7, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–117–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that, during fatigue tests, cracks were found, starting at the attachment holes for doorstop fitting No. 5 at frame 73A on the aft passenger/crew doors. This condition, if not corrected, could result in reduced structural integrity of the door frames.

Although the fatigue tests were performed on the Model A340 series airplane, the subject area on affected Model A330 series airplanes is almost identical to that on the affected Model A340 series airplanes. Therefore, those Model A330 series airplanes may be subject to the same unsafe condition revealed on the Model A340 series airplanes.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A330–53–3074, Revision 01 (for Model A330 series airplanes), and A340–53–4085, Revision 01 (for Model A340 series airplanes), both dated May 19, 1998, which describe, among other things, procedures for inspection of the two inboard attachment holes and the support fitting in frame 73A of the aft passenger/crew doors for cracks, and cold expansion of the holes and the addition of bushings to improve the fatigue behavior of the doorstop fittings. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The DGAC classified the inspections as mandatory and the cold expansion modifications as optional and issued French airworthiness directives 2000–126–114(B) (for Model A330 series airplanes) and 2000–125–139(B) (for Model A340 series airplanes), both dated March 8, 2000, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future,

this AD is being issued to detect and prevent fatigue cracking of the of the attachment holes for doorstop fitting number 5, which could result in reduced structural integrity of the door frames. This AD requires inspection of the two inboard attachment holes and the support fitting in frame 73A of the aft passenger/crew doors for cracks; repair, if necessary; and cold expansion of the holes and the addition of bushings to improve the fatigue behavior of the doorstop fittings, the accomplishment of which constitutes terminating action for certain inspections. The actions are required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Differences Between This AD and the Service Bulletins and Foreign Airworthiness Directives

This AD differs from the parallel French airworthiness directives in that they mandate the accomplishment of the cold expansion of the holes and the addition of bushings. The French airworthiness directives provide for those actions as optional, in lieu of repetitive inspections. Mandating the modification is based on the FAA's determination that long-term continued operational safety will be better ensured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. This modification requirement is consistent with these conditions.

Operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that will be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or the DGAC will be acceptable for compliance with this AD.

In addition, although the service bulletins refer to inspection service bulletins that must be followed prior to or concurrent with the modifications, this AD does not require accomplishment of those inspection service bulletins because the accomplishment of the modification cancels their inspection requirements.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 4 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. The cost of required parts would be minimal. Based on these figures, the cost impact of this AD is estimated to be $240 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–117–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–07–02 Airbus Industrie: Amendment 39–12167. Docket 2000–NM–117–AD.

Applicability: Model A330–301, –321, –322, –341, and –342 series airplanes, and Model A340–211, –212, –213, –311, –312, and –313 series airplanes, certificated in any category, except those on which Airbus Modification 41849 or 44932 (reference Service Bulletin A330–53–3074, Revision 01, for Model A330 series airplanes; or A340–53–4085 Revision 01, for Model A340 series airplanes; both dated May 19, 1998) has been accomplished.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent propagation of fatigue cracking, which could result in reduced structural integrity of the door frames, accomplish the following:

Inspection

(a) Conduct an eddy current rotating probe test procedure on the holes for doorstop fitting number 5 (left and right) on frame 73A, as specified in paragraph (a)(1) or (a)(2), as applicable, of this AD.

(1) For Model A330 series airplanes: Prior to the accumulation of 13,000 total flight cycles, conduct the test in accordance with Airbus Service Bulletin A330–53–3074, Revision 01, dated May 19, 1998.

(2) For Model A340 series airplanes: Prior to the accumulation of 8,000 total flight cycles, conduct the test in accordance with Airbus Service Bulletin A340–53–4085, Revision 01, dated May 19, 1998.

Repairs

(b) If any crack is detected during the inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Terminating Action

(c) Before further flight following the inspection required in paragraph (a) of this AD, cold expand the holes for (left and right) doorstop fitting number 5 and install bushings, in accordance with Airbus Service Bulletin A330–53–3074, Revision 01 (for Model A330 series airplanes), or Airbus Service Bulletin A340–53–4085, Revision 01 (for Model A340 series airplanes), both dated May 19, 1998, as applicable. Accomplishment of this action constitutes terminating action for the requirements of this AD.

Note 2: Inspection and modification accomplished prior to the effective date of this AD, in accordance with Airbus Service Bulletin A330–53–3074, dated November 17, 1997 (for Model A330 series airplanes), or Airbus Service Bulletin A340–53–4085, dated November 17, 1997 (for Model A340 series airplanes), as applicable, are considered acceptable for compliance with the applicable action specified in this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then forward the requests and added comments to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) Except as required by paragraph (b) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A330–53–3074, Revision 01, dated May 19, 1998; or Airbus Service Bulletin A340–53–4085, Revision 01, dated May 19, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directives 2000–126–114(B), dated March 8, 2000, and 2000–125–139(B), dated March 8, 2000.

Effective Date

(g) This amendment becomes effective on April 20, 2001.

Issued in Renton, Washington, on March 26, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–7960 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–67–AD; Amendment 39–12166; AD 2001–07–01]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Model DG–800B Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain DG Flugzeugbau GmbH (DG Flugzeugbau) Model DG–800B sailplanes. This AD requires you to install an additional filter for the primer valve; inspect and align the exhaust system; modify the placement of the fuel lines if the fuel filter is installed at the front mounting point of the spindle drive; and secure the gas strut piston rod end using Loctite if the piston rod does rotate. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent failure of the fuel line, exhaust system, and piston rod of the gas strut, which could result in failure of the engine. Such failure could lead to loss of power during critical stages of flight.

DATES: This AD becomes effective on May 26, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of May 26, 2001.

ADDRESSES: You may get the service information referenced in this AD from DG Flugzeugbau, Postbox 41 20, D–76646 Bruchsal, Federal Republic of Germany; telephone: +49 7257–890;

facsimile: +49 7257–8922. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–67–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified FAA that an unsafe condition may exist on all DG Flugzeugbau Model DG–800B sailplanes equipped with a SOLO engine. The LBA reports that an extensive review of the service history revealed failures of the primer valve, exhaust system, fuel line, exhaust and piston rod of the gas strut for the engine.

What Are the Consequences if the Condition Is Not Corrected?

The actions specified by this AD are intended to prevent failure of the fuel line, exhaust system, and piston rod of the gas strut, which could result in failure of the engine. Such failure could lead to loss of power during critical stages of flight.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain DG Flugzeugbau Model DG–800B sailplanes. This proposal was published in the Federal Register as a notice of proposed rulemaking (NPRM) on January 9, 2001 (66 FR 1607). The NPRM proposed to require you to install an additional filter for the primer valve; inspect and align the exhaust system; modify the placement of the fuel lines if the fuel filter is installed at the front mounting point of the spindle drive; and secure the gas strut piston rod end using Loctite if the piston rod does rotate.

Was the Public Invited To Comment?

Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—will not change the meaning of the AD; and

—will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Sailplanes Does This AD Impact?

We estimate that this AD affects 6 sailplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Sailplanes?

We estimate the following costs to do the installation of an additional filter for the primer valve:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
2 workhours × $60 = $120	Manufacturer will provide the parts at no cost	$120	$120 × 6 = $720.

We estimate the following costs to inspect and align the exhaust system:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
1 workhour × $60 = $60	Manufacturer will provide the parts at no cost	$60	$60 × 6 = $360.

We estimate the following costs to modify the placement of the fuel lines:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
1 workhour × $60 = $60	Manufacturer will provide the parts at no cost	$60	$60 × 6 = $360.

We estimate the following costs to secure the gas strut rod end:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
1 workhour × $60 = $60	Manufacturer will provide the parts at no cost	$60	$60 × 6 = $360.

Compliance Time of This AD

What Will Be the Compliance Time of This AD?

Unless already done, the compliance times of this AD are:

Compliance	Action
Within the next 3 calendar months after the effective date of this AD	Install an additional filter for the primer valve.
Within the next 3 calendar months after the effective date of this AD	Inspect and align the exhaust system.
Within the next 30 days after the effective date of this AD	Modify the placement of the fuel lines.
Within the next 30 days after the effective date of this AD	Remove the gas strut from the engine mount and secure the rod end using Loctite.

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-In-Service (TIS)?

Although the failures of the fuel line, exhaust system, and piston rod of the gas strut occur during flight, the condition is not a direct result of sailplane operation. A calendar time for compliance will ensure that the unsafe conditions are addressed on all sailplanes in a reasonable time period. Sailplane operation varies among operators. For example, one operator may use the sailplane 50 hours TIS in 3 months while it may take another 12 months or more to accumulate 50 hours TIS. In order to ensure that preventive and corrective actions are done in a timely manner, the compliance time for installing an additional filter for the primer valve and inspecting and aligning the exhaust system is required within the next 3 calendar months after the effective date of this AD, unless already done.

Because of the impact on safety, the compliance time for modifying the placement of the fuel lines and removing the gas strut from the engine mount and securing the rod end using Loctite is required within the next 30 days after the effective date of this AD, unless already done.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–07–01 DG FLUGZEUGBAU GMBH: Amendment 39–12166; Docket No. 99–CE–67–AD.

(a) *What sailplanes are affected by this AD?* This AD affects the following sailplane models and serial numbers that are certificated in any category:

Model	Serial numbers
DG–800B with SOLO engine	8–001 through 8–128 for paragraph (d)(1) of this AD.
DG–800B with SOLO engine	8–001 through 8–154 for paragraph (d)(2) of this AD.
DG–800B with SOLO engine	all serial numbers for paragraphs (d)(3) through (4) of this AD.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent failure of the fuel line, exhaust system, and piston rod of the gas strut, which could result in failure of the engine. Such failure could lead to loss of power during critical stages of flight.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must do the following unless already done:

Actions	Compliance	Procedures
(1) If the fuel filter is installed at the front mounting point of the spindle drive, modify the placement of the fuel lines.	Within the next 30 days after May 26, 2001 (the effective date of this AD).	Do this action following the Instructions paragraph of DG Flugzeugbau Technical Note (TN) No. 873/13, dated June 30, 1999.

Actions	Compliance	Procedures
(2) If there is no paint marking (torque putty) or if marking proves that the piston rod rotates remove the gas strut from the engine mount and secure the rod end using Loctite, then apply marking paint line (torque putty).	Within the next 30 days after May 26, 2001 (the effective date of this AD).	Do this action following the Instructions paragraph of DG Flugzeugbau TN No. 873/13, dated June 30, 1999, and the maintenance manual.
(3) Install an additional filter for the primer valve	Within the next 3 calendar months after May 26, 2001 (the effective date of this AD).	Do this action following the Instructions paragraph of DG Flugzeugbau TN No. 873/12, dated March 9, 1999, and Working Instruction No. 1 for TN No. 873/12.
(4) Inspect and align the exhaust system	Within the next 3 calendar months after May 26, 2001 (the effective date this AD).	Do this action following the Instructions paragraph of DG of Flugzeugbau TN No. 873/12, dated March 9, 1999, and Working Instruction No. 2 for TN No. 873/12.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64016; telephone: (816) 329–4144; facsimile: (816) 329–4090.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with DG Flugzeugbau Technical Note No. 873/12 (including Working Instruction No. 1 and No. 2), dated March 9, 1999, and DG Flugzeugbau Technical Note No. 873/13, dated June 30, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from DG Flugzeugbau, Postbox 41 20, D–76646 Bruchsal, Federal Republic of Germany. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on May 26, 2001.

Note 2: The subjects of this AD are addressed in German AD 1999–269, Effective Date: July 22, 1999, and German AD 1999–167, Effective Date: May 20, 1999.

Issued in Kansas City, Missouri, on March 27, 2001.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–8067 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2001–8682; Airspace Docket No. 01–ASW–1]

RIN 2120–AA66

Establishment of V–611 and Revocation of V–19; NM

AGENCY: Federal Aviation Administration (FAA, DOT).

ACTION: Final rule.

SUMMARY: This action changes the designation of Federal Airway 19 (V–19) to V–611. Currently, two airways with similar designations, V–19 and V–190, converge at the Albuquerque very high frequency omnidirectional range tactical air navigation (VORTAC) facility. This similarity has resulted in some pilots inadvertently joining the wrong route segment. This action will eliminate the similarity by redesignating V–19 as V–611. Except for the route designation, the airway alignment, radials, and published altitudes will all remain unchanged. This action will reduce the air traffic controller workload and enhance aviation safety.

EFFECTIVE DATE: 0901 UTC, May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The FAA has identified a potentially unsafe situation resulting from two airways with similar names (V–19 and V–190) that cross the Albuquerque, NM, VORTAC navigation facility and proceed in the same general direction. Aircraft that were cleared via V–19 have been observed joining V–190 by mistake. This results in a potentially unsafe situation because the minimum en route altitude (MEA) on V–190 is 13,000 feet above mean sea level (MSL) while the MEA on V–19 is only 9,000 feet above MSL. As a result, aircraft cleared via V–19, but joining V–190 by mistake, may not be high enough to clear the mountains northeast of the VORTAC. This is a common mistake and in a recent incident, corrective action was taken by the controller to prevent an unsafe situation.

The Rule

This amendment to 14 CFR part 71 changes the designation of V–19 in its entirety to V–611. There are no changes to any of the existing radials or altitudes.

This change is necessary because two airways with similar designations, V–19 and V–190, converge at the Albuquerque, NM, VORTAC navigation facility. This similarity has resulted in some pilots inadvertently joining the wrong route segment northeast of the Albuquerque, NM, VORTAC while continuing to fly at an altitude that

would have been safe on the correct airway route segment but that would not be safe on the route segment that they joined by mistake. This action will reduce the likelihood that this mistake would happen by redesignating V–19 as V–611. Because this action is needed for safety reasons, for good cause, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Comments are not being requested because it is unlikely that useful information will be received.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federal airways are published in paragraph 6010(a) of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Federal airways listed in this document will be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–19 [Remove]

* * * * *

V–611 [New]

From Newman, TX, via INT Newman 286° and Truth or Consequences, NM, 159° radials; Truth or Consequences; INT Truth or Consequences 028° and Socorro, NM, 189° radials; Socorro; Albuquerque, NM; INT Albuquerque 036° and Santa Fe, NM, 245° radials; Santa Fe; Las Vegas, NM; Cimarron, NM; Pueblo, CO; Black Forest, CO; INT Black Forest 036° and Gill, CO, 149° radials; Gill; Cheyenne, WY; Muddy Mountain, WY; 5 miles, 45 miles 71 MSL, Crazy Woman, WY; Sheridan, WY; Billings, MT; 38 miles 72 MSL, INT Billings 347° and Lewistown, MT, 104° radials; Lewistown; INT Lewistown 322° and Havre, MT, 226° radials; to Havre.

* * * * *

Issued in Washington, DC, on March 30, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–8439 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–13–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1812, 1823, and 1852

Safety and Health (Short Form)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: This interim rule amends the NASA FAR Supplement (NFS) to add a new Safety and Health (Short Form) clause which requires contractors to take all reasonable safety and occupational health measures in contracts above the micro-purchase threshold; amends other existing safety and health clauses to make them consistent with the new NASA Safety and Health (Short Form) clause; and adds an Alternate I, Safety and Health Plan, to address submission of safety and health plans under Invitations for Bids (IFBs).

DATES: *Effective Date:* This rule is effective May 7, 2001.

Applicability Date: This rule applies to solicitations issued on or after May 7, 2001.

Comment Date: Comments should be submitted to NASA at the address below on or before June 4, 2001.

ADDRESSES: Interested parties should submit written comments to Jeff Cullen, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments may also be submitted by e-mail to *jcullen@hq.nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Cullen, (202) 358–1784.

SUPPLEMENTARY INFORMATION:

A. Background

Emphasizing safety and occupational health can result in reductions in the number of incidents involving injury or death to personnel, and in a reduction in lost or restricted workdays. These reductions enhance the probability of mission success by decreasing development time, cycle times, operational delays and costs. Since NASA contracts account for approximately 80 percent of its budget, NASA recognizes that for it to achieve mission success, it is critically important that NASA contractors also emphasize safety and occupational health. While the existing NASA Safety and Health clause (1852.223–70) applies to many high dollar value and high-risk contracts, NASA has many more contracts that it does not apply to that are also critical to the agency achieving its mission. This interim rule implements a Safety and Health (Short Form) clause to address safety and occupational health in all of its contracts above the micro-purchase threshold where 1852.223–70 does not apply. This clause will hold contractors accountable for the safety and occupational health measures consistent with standard industry practice in performing the contract. It also defines NASA's safety priority to protect: (1) The public, (2) astronauts and pilots, (3) the NASA workforce, and (4) high-value equipment and property. This will help lead to mission success for NASA and its contractors. Additionally, this interim rule amends the NASA Safety and Health clause (1852.223–70), the Safety and Health Plan clause (1852.223–73), and the Major Breach of Safety or Security clause (1852.223–75) to make them consistent with the new NASA Safety and Health (Short Form) clause (1852.223–72) by adding the safety priority; and adds an Alternate I to 1852.223–73, Safety and Health Plan,

to address submission of safety and health plans under IFBs.

B. Regulatory Flexibility Act

NASA certifies that this interim rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because this interim rule focuses attention on safety and occupational health, and does not impose any significant new requirements which might have an economic impact.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 41 U.S.C. 3501, *et seq*.

D. Determination to Issue an Interim Rule

In accordance with 41 U.S.C. 418b(d), NASA has determined that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. The basis of this determination is that many ongoing NASA activities, such as advanced research, aeronautics and space flight involve safety and occupational health risks. Requiring contractors to immediately take all reasonable safety and occupational health measures is necessary to reduce these risks, and should result in reductions in the number of incidents involving injury or death to personnel, and in lost or restricted workdays.

List of Subjects in 48 CFR Parts 1812, 1823, and 1852

Government procurement.

Lynn Bailets,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1812, 1823, and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1812, 1823, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473 (c)(1).

PART 1812—ACQUISITION OF COMMERCIAL ITEMS

2. In section 1812.301, amend paragraph (f)(i) by redesignating paragraphs (I) through (N) as (J) through (O) respectively and adding new paragraph (I) to read as follows:

1812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) * * *

(I) 1852.223–72, Safety and Health (Short Form).

* * * * *

PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

3. Amend section 1823.7001 by adding paragraph (e) to read as follows:

1823.7001 NASA solicitation provisions and contract clauses.

* * * * *

(e) For all solicitations and contracts exceeding the micro-purchase threshold that do not include the clause at 1852.223–70, Safety and Health, the contracting officer shall insert the clause at 1852.223–72, Safety and Health (Short Form).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 1852.223–70 by revising the date of the clause, redesignating paragraphs (a) through (h) as (b) through (i) respectively, adding a new paragraph (a), and revising newly designated paragraphs (f)(2) and (g) to read as follows:

1852.223–70 Safety and Health.

* * * * *

Safety and Health—May 2001

(a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) The public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.

* * * * *

(f)(1) * * *

(2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (f)(1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.

(g) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (g) and any applicable Schedule provisions, with appropriate changes of designations of the parties, in subcontracts of every tier that—

(1) Amount to $1,000,000 or more (unless the Contracting Officer makes a written determination, after consultation with installation safety and health representatives, that this is not required);

(2) Require construction, repair, or alteration in excess of $25,000; or

(3) Regardless of dollar amount, involve the use of hazardous materials or operations.

* * * * *

5. Add section 1852.223–72 to read as follows:

1852.223–72 Safety and Health (Short Form).

As prescribed in 1823.7001(e), insert the following clause:

Safety and Health (Short Form)—May 2001

(a) Safety is the freedom from those conditions that can cause death, injury, occupational illness; damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) The public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.

(b) The Contractor shall take all reasonable safety and occupational health measures consistent with standard industry practice in performing this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and occupational health and with the safety and occupational health standards, specifications, reporting requirements, and any other relevant requirements of this contract.

(c) The Contractor shall take, or cause to be taken, any other safety, and occupational health measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the Changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other clause of the contract.

(d) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. The Contractor shall promptly take and report any necessary corrective action. The Government may pursue appropriate remedies in the event the contractor fails to promptly take the necessary corrective action.

(e) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (d) and any applicable Schedule provisions, with appropriate changes of designations of the parties, in subcontracts of every tier that exceed the micro-purchase threshold.

(End of clause)

6. Amend section 1852.223–73 by revising the date of the clause and the next to last sentence to read as follows:

1852.223–73 Safety and Health Plan.

* * * * *

Safety and Health Plan—May 2001

* * * Also, when applicable, the plan must address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of: (1) The public, (2) astronauts and pilots, (3) the NASA workforce (including other contractor employees working on NASA contracts), and (4) high-value equipment and property.

* * * * *

7. In section 1852.223–73, add Alternate I to read as follows:

1852.223–73 Safety and Health Plan.

* * * * *

Alternate I—May 2001

In Invitations for Bids, delete the first sentence of the basic provision and substitute the following:

The apparently successful offeror shall submit a detailed safety and occupational health plan (see NPG 8715.3, NASA Safety Manual, Appendix H) after notification of selection but before award.

8. Amend section 1852.223–75 by revising the date of the clause and adding a sentence between the second and third sentence in paragraph (a) to read as follows:

1852.223–75 Major Breach of Safety or Security.

* * * * *

Major Breach of Safety or Security—May 2001

(a) * * * NASA's safety priority is to protect: (1) The public; (2) astronauts and pilots; (3) the NASA workforce (including contractor employees working on NASA contracts); and (4) high-value equipment and property. * * *

* * * * *

[FR Doc. 01–8394 Filed 4–4–01; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1842 and 1852

Emergency Medical Services and Evacuation

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule adopted as final with changes.

SUMMARY: This is a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to add a prescription and clause requiring contractors to make all arrangements for emergency medical services and evacuation for its employees when performing a NASA contract outside the United States or in remote locations in the United States. The clause also requires contractors to reimburse the Government for costs that are incurred in cases when the Government is requested by the contractor, and the Government agrees to provide the medical services or evacuation.

EFFECTIVE DATE: April 5, 2001.

FOR FURTHER INFORMATION CONTACT: Louis Becker, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546, telephone: (202) 358–4593, e-mail to: lbecker@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

NASA is adopting as final, with changes, the proposed rule published in the December 7, 2000, **Federal Register** (65 FR 76600–76601). This final rule sets forth a prescription and clause requiring contractors to make all arrangements for emergency medical services and evacuation, if necessary, for their employees when performing a NASA contract outside the United States or in remote locations in the United States. The clause also requires contractors to reimburse the Government for costs incurred by the agency in those cases when the Government is requested and it agrees to provide the medical services or evacuation. This final rule is in response to cases where contractor employees required emergency medical services and evacuation while performing on NASA contracts outside the United States. Although not responsible for providing the emergency medical or evacuation services, NASA believed the interests of the contractor employees were paramount. However, this resulted in situations where NASA incurred significant costs, which ultimately were reimbursed by the contractor, but possibly could have been disputed. One comment was received in response to the proposed rule. The comment was considered in formulation of this final rule. One change is made in this final rule to clarify that the contractor's responsibility includes the cost of arranging for the emergency medical services or evacuation.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because there are few contracts awarded to small businesses involving contract performance outside the United States or in remote locations in the United States.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 42 and 52

Government procurement.

Lynn Bailets,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1842 and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1842 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1842—CONTRACT ADMINISTRATION AND AUDIT PROCEDURES

2. Amend Part 1842 by adding section 1842.7003 to read as follows:

1842.7003 Emergency medical services and evacuation.

The contracting officer must insert the clause at 1852.242–78, Emergency Medical Services and Evacuation, in all solicitations and contracts when employees of the contractor are required to travel outside the United States or to remote locations in the United States.

3. Amend Part 1852 by adding section 1852.242–78 to read as follows:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.242–78 Emergency Medical Services and Evacuation.

As prescribed in 1842.7003, insert the following clause:

Emergency Medical Services and Evacuation—April 2001

The Contractor shall, at its own expense, be responsible for making all arrangements for emergency medical services and evacuation, if required, for its employees while performing work under this contract outside the United States or in remote locations in the United States. If necessary to deal with certain emergencies, the Contractor may request the Government to provide medical or evacuation services. If the Government provides such services, the Contractor shall reimburse the Government for the costs incurred.

(End of clause)

[FR Doc. 01–8395 Filed 4–4–01; 8:45 am]

BILLING CODE 7510–01–U

Proposed Rules

Federal Register
Vol. 66, No. 66
Thursday, April 5, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2001–8683; Airspace Docket No. 01–ASW–2]

RIN 2120–AA66

Proposed Modification of Restricted Area R–6312 Cotulla; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to raise the upper limit of Restricted Area 6312 (R–6312) Cotulla, TX, from the current 12,000 feet above mean sea level (MSL) to Flight Level 230 (FL 230) to provide airspace for high altitude release bombing training. No other changes to R–6312 are proposed.

DATES: Comments must be received on or before May 21, 2001.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket numbers FAA–2001–8683/Airspace Docket No. 01–ASW–2 at the beginning of your comments.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Nos. FAA–2001–8683/Airspace Docket No. 01–ASW–2.'' The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land use aspects to: Commander Training Air Wing Two, ATTN: Mr. Arturo Villarreal, 205 Mitscher Ave., Suite 101, Kingsville, TX, 78363–5008. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the internet at *http://dms.dot.gov.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783.

Communications must identify both docket numbers of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The U.S. Navy has requested an increase to the vertical limits of R–6312 from 12,000 feet above MSL to FL 230 in order to provide airspace needed for conducting high altitude release bombing training. The current upper limit of 12,000 feet above MSL is not suitable for meeting this training requirement. No other changes to R–6312 are requested.

The Proposal

The FAA is proposing an amendment to 14 CFR part 73 to raise the vertical limits of R–6312 from 12,000 feet above MSL to FL 230. This additional altitude is required in order to meet the Navy's requirement for high altitude release bombing training. No other changes to R–6312 are proposed by this action. Section 73.63 of 14 CFR part 73 was republished in FAA Order 7400.8H, dated September 1, 2000.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1D, Procedures for Handling Environmental Impacts, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.63 [Amended]

2. § 73.63 is amended as follows:

* * * * *

R–6312 Cotulla, TX [Amended]

By removing the current designated altitudes and substituting the following:

Designated Altitudes

Surface to FL 230, excluding the area west of a line between lat. 28°17′41″ N., long. 98°47′56″ W.; and lat. 28°11′56″ N., long. 98°48′01″ W.; and the area along Highway 624 extending ¼ mile each side where the floor is 1,000 feet AGL.

* * * * *

Issued in Washington, DC, on March 30, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–8438 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–00–044]

RIN 2115–AE46

Special Local Regulations for Marine Events; Chester River, Kent Island Narrows, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for fireworks displays held over the waters of the Chester River, Kent Island Narrows, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in portions of the Chester River before, during and after the fireworks displays.

DATES: Comments and related material must reach the Coast Guard on or before June 4, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of this docket and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland, 21226–1791, telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–00–044), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. The comment period for this regulation is 60 (sixty) days. This time period is adequate since the event is well publicized in the local maritime community. If you would like to know that your comments reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

At various times throughout the year, fireworks displays are held over the waters of the Chester River, Kent Island Narrows, Maryland. The events consist of pyrotechnic displays fired from a barge positioned north of Kent Island Narrows, Maryland. A fleet of spectator vessels gathers nearby to view the fireworks displays. Due to the dangers inherent in fireworks displays, vessel traffic will need to be temporarily restricted to provide for the safety of spectators and transiting vessels.

Discussion of Proposed Rule

The Coast Guard will establish special local regulations on specified waters of the Chester River for fireworks displays. The special local regulations will restrict general navigation in the regulated area before, during and after the events. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the fireworks display to enhance the safety of spectators and transiting vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this proposed regulation will prevent traffic from transiting a portion of the Chester River during the events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so

mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Chester River during the event.

Although this proposed regulation will prevent traffic from transiting or anchoring in a portion of the Chester River during the events, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

If you think that your business, organization or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule will not impose an unfunded mandate.

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We prepared an ''Environmental Assessment'' in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The ''Environmental Assessment'' and ''Finding of No Significant Impact'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add § 100.506 to read as follows:

§ 100.506 Fireworks Displays, Chester River, Kent Island Narrows, Maryland.

(a) *Definitions*—(1) *Regulated Area.* The regulated area is defined as the waters of the Chester River enclosed within the arc of a circle with a radius of 150 yards and with its center located at latitude 38°58′36″ N, longitude 076°14′18″ W. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(3) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(c) *Effective Dates:* This section is effective annually from 8:30 p.m. on July 4 until 9:30 p.m. on July 5 and from 8:30 p.m. on the first Sunday in September until 9:30 p.m. on the following day.

(d) *Enforcement Times:* It is expected that this section will be enforced annually from 8:30 p.m. to 9:30 p.m. on July 4 and on the first Sunday in September. However, if the event is

postponed due to inclement weather, then this section will be enforced the next day. Notice of the enforcement time will be given via Marine Safety Radio Broadcast on VHF–FM marine band radio, Channel 22 (157.1 MHz).

Dated: March 23, 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–8312 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–6963–4]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Rocky Flats Environmental Technology Site for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at the Rocky Flats Environmental Technology Site (RFETS) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are available for review in the public dockets listed in **ADDRESSES.** We will conduct an inspection of waste characterization systems and processes at RFETS to verify that the proposed nondestructive assay processes at RFETS can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA will perform this inspection the week of April 23, 2001.

DATES: EPA is requesting public comment on the document. Comments must be received by EPA's official Air Docket on or before May 7, 2001.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday 1 p.m.–5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m.

As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Scott Monroe, Office of Radiation and Indoor Air, (202) 564–9310, or call EPA's toll-free WIPP Information Line, 1–800–331–WIPP.

SUPPLEMENTARY INFORMATION:

Background

DOE has opened the WIPP near Carlsbad, New Mexico, as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Public Law 102–579), as amended (Public Law 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, we announced our final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that: (1) Prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of appendix A to 40 CFR part 194); and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until the EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of appendix A to 40 CFR part 194). Our approval process for waste generator sites is described in § 194.8. As part of our decision-making process, the DOE is required to submit to us documents describing the quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, we place these documents in the official Air Docket in Washington, DC, and in supplementary dockets in the State of New Mexico, for public review and comment.

EPA approved the required quality assurance program at RFETS in March 1999. EPA also approved certain waste characterization processes at RFETS after several subsequent inspection throughout 1999 and 2000. DOE is proposing to use additional nondestructive assay processes that EPA did not previously inspect at RFETS. EPA will conduct a inspection of RFETS during the week of April 23, 2001, to verify that the proposed processes are effective as part of the system of controls for waste characterization in accordance with 40 CFR 194.24.

We have placed the operating procedures for the proposed nondestructive radioassay equipment in the public docket described in **ADDRESSES.** The procedures are entitled, ''Operating Building 569 Drum Tomographic Gamma Scanner, PRO–1007–TGS–569–02, Rev. 0, 3/9/01,'' ''Operating Building 569 Passive/Active Drum Counter, PRO–666–PADC569, Rev. 1, 2/23/01,'' ''Operating Building 569 FRAM Gamma Spectroscopy System, PRO–1092–FRAM–569, Rev 1, 3/9/01,'' and ''Operating the Super High Efficiency Neutron Coincidence (SuperHENC) Counter Mobile Assay System, PRO–957–SuperHENC, Revision 3, 2/23/01.'' In accordance with 40 CFR 194.8, as amended by the final certification decision, we are providing the public 30 days to comment on these documents.

If we determine as a result of the inspection that the proposed processes at RFETS adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the three duplicate dockets in New Mexico. A letter of approval will allow the DOE to ship from RFETS the TRU waste that may be characterized using the approved processes. We will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air

Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: March 30, 2001.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 01–8492 Filed 4–4–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 90–571; FCC 01–89]

Telecommunications Relay Services and the American With Disabilities Act of 1990

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This *Second Further Notice of Proposed Rulemaking* seeks comment on whether to modify the Federal Communication Commission's (FCC) rules to permit telecommunications relay service (TRS) providers to treat coin sent-paid TRS calls in a manner different from all other calls, or to suspend permanently the enforcement of the requirement that TRS be capable of handling any type of call with respect to coin sent-paid calls. Additionally, the FCC seeks input on its proposed rules to provide functionally equivalent payphone service to TRS users in order to develop a sound policy on the obligations of TRS providers with respect to coin sent-paid calls.

DATES: Comments due May 7, 2001. Reply comments due May 21, 2001. Written comments by the public on the proposed information collections are due May 7, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before June 4, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, 202/418–7705, Fax 202/418–2345, TTY 202/418–0484, pslipako@fcc.gov, Network Services Division, Common Carrier Bureau.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to *Edward.Springer@omb.eop.gov.*

For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the *Second Further Notice of Proposed Rulemaking, CC Docket No. 90–571, FCC 01–89 (Second Further NRPM),* adopted March 13, 2001 and released March 16, 2001. The full text of the *Second Further NRPM* is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, Room CY–A257, 445 12th Street, SW, Washington, DC 20554, or copies may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 445 12th Street, SW, Suite CY–B400, Washington, DC 20554, phone (202) 857–3800.

This NPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

1. This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due 60 days from date of publication of this NPRM in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–0789.

Title: Modified Alternative Plan, CC Docket No, 90–571.

Form No.: N/A.

Type of Review: Proposed Revision of Existing Collection.

Respondents: Business or other for-profit institutions.

Title	Number of respondents	Hours per response	Total annual burden (hours)
a. Letter to CAN Members	30	4	120
b. Create & Distribute Laminated Cards	30	15	450
c. Display Instructions	30	15	450
d. Display on Internet	30	4	120
e. Publication in Directory	30	4	120
f. Status Reports	30	4	120

Total Annual Burden: 1380 hours.

Cost to Respondents: $0.

Needs and Uses: The information obtained from this collection will be used to provide TRS users with information regarding their ability to make relay calls from payphones during the suspension of the rules.

Synopsis of the Second Further Notice of Proposed Rulemaking CC Docket No. 90–571

2. Title IV of the Americans with Disabilities Act (ADA), which is codified at section 225 of the

Communications Act of 1934, as amended (the Act), mandates that the Commission ensure that interstate and intrastate telecommunications relay services (TRS) are available, to the extent possible and in the most efficient manner, to individuals in the United States with hearing and speech disabilities. Title IV aims to further the Act's goal of universal service by providing to individuals with hearing or speech disabilities, telephone services that are functionally equivalent to those available to individuals without such disabilities. The Commission is fully committed to furthering these goals in the manner directed by Congress.

3. The ADA requires the Commission to establish functional requirements, guidelines, and operational procedures for TRS, and to establish minimum standards for carriers' provisioning of TRS. To establish a TRS that provides services which are functionally equivalent to telephone services available to voice users, Congress directed, among other things, that the Commission prohibit TRS providers from ''failing to fulfill the obligations of common carriers by refusing calls.'' In its *First Report and Order*, 56 FR 36729 (Aug. 1, 1991), on TRS, the Commission interpreted this ADA mandate to require TRS providers to handle ''any type of call normally provided by common carriers,'' and placed the burden of proving the infeasibility of handling a particular type of call on the carriers. The Commission interpreted ''any type of call'' to include coin sent-paid calls, which are calls made by depositing coins in a standard coin-operated public payphone. Subsequent concerns about the technical difficulties associated with handling coin sent-paid calls through TRS centers, however, resulted in multiple suspensions of the mandate for TRS providers to handle these types calls. The Commission issued the first of these suspensions in 1993; the most recent of these suspensions remains in effect through May 26, 2001.

4. Because no technological solution to the coin sent-paid issue appears imminent, the FCC issues this *Second Further Notice of Proposed Rulemaking (Second Further NRPM)* to determine the best plan to make the full range of payphone services available to TRS users. Section 225 of the Act requires the Commission to ensure that interstate and intrastate relay services are available throughout the country and to promulgate regulations prohibiting relay operators from failing to fulfill the obligations of common carriers by refusing calls. Thus, the Commission has a responsibility to seek further information on the coin sent-paid issue in order to provide persons with hearing and speech disabilities with the most efficient manner of utilizing TRS from payphones. Furthermore, the Commission has a responsibility under section 225(d)(1)(D) of the Act to ensure that ''users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communications services * * * .'' As a result of this obligation, the Commission must determine if the coin sent-paid rules are efficient and cost-effective for TRS users. In this *Second Further NRPM*, the FCC seeks comment on various proposals to provide functionally equivalent service to TRS users. The FCC specifically proposes that telephone carriers: (1) Not charge TRS users for making relay calls that would otherwise be local from payphones; (2) enable TRS users to use calling cards, collect or third party billing for toll calls from payphones and not charge more than the lower of the coin sent-paid rate or the rate for the calling card, collect or third-party billing; and, (3) conduct extensive consumer education programs to educate TRS users about their payphone calling options.

Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules in this *Second Further Notice of Proposed Rulemaking (Further Notice).* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further NRPM.* The Commission will send a copy of the *Second Further NRPM* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, the Second Further NRPM and IRFA (or summaries thereof) will be published in the **Federal Register**.

6. The Commission is issuing this *Second Further NRPM* to seek comment on whether to modify the Commission's rules to permit telecommunications relay service (TRS) providers to treat coin sent-paid TRS calls in a manner different from all other calls, or to suspend permanently the enforcement of the requirement that TRS be capable of handling any type of call with respect to coin sent-paid calls. Additionally, the Commission seeks input on its proposed rules to provide functionally equivalent payphone service to TRS users in order to develop a sound policy on the obligations of TRS providers with respect to coin sent-paid calls.

7. The authority for actions proposed in this *Second Further NRPM* may be found in sections 1, 2, 4, 225, 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 1, 2, 4, 225, 303(r).

8. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under section 3 of the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The rules the FCC is considering in this proceeding, will affect TRS providers, pay telephone operators and wireline carriers and service providers.

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its Telecommunications Industry Revenue report, regarding TRS.

10. *TRS Providers.* Neither the Commission nor the SBA has developed a definition of small entity specifically applicable to providers of telecommunications relay services (TRS). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The SBA defines such establishments to be small businesses when they have no more than 1,500 employees. According to the FCC's most recent data, there are 11 interstate TRS providers, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. The FCC does not have data specifying the number of these providers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and the FCC is thus unable at this time to estimate with greater precision the number of TRS providers that would qualify as small business concerns under the SBA's definition. The FCC notes, however, that these providers include large interexchange carriers and incumbent local exchange carriers. Consequently, the FCC estimates that there are fewer

than 11 small TRS providers that may be affected by the proposed rules, if adopted. The FCC seeks comment generally on its analysis identifying TRS providers, and specifically on whether the FCC should conclude, for Regulatory Flexibility Act purposes, that any TRS providers are small entities.

11. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent Trends in Telephone Service data, 615 carriers reported that they were engaged in the provision of pay telephone services. The FCC does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, the FCC estimates that there are less than 615 small entity pay telephone operators.

12. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent local exchange carriers (LECs). The FCC does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the FCC estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs.

13. The FCC has included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and is not dominant in its field of operation. The SBA's Office of Advocacy contends that for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. The FCC has therefore included small incumbent LECs in this RFA analyses, although the FCC emphasizes that this RFA action has no effect on FCC analyses and determination in other, non-RFA contexts.

14. The proposed rules may require carriers to submit status reports on any new technologies that can provide coin sent-paid calls through the TRS centers. Any additional costs incurred as a result of this proceeding should be nominal because the entities affected, including any small businesses, have been in compliance with the *Interim Plan Order.* Thus, the Commission expects that the proposals will have minimal impact on small entities. The FCC tentatively concludes that the proposals in the *Second Further NRPM* would impose minimum burdens on small entities. The FCC seeks comment on the tentative conclusion.

15. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c). The Commission has tentatively concluded that the proposed rules will have minimal impact on small entities.

Report to Congress

16. The Commission will send a copy of this *Second Further Notice of Proposed Rulemaking*, including a copy of this IRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the *Second Further Notice of Proposed Rulemaking* and this IRFA will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

Ordering Clauses

17. Pursuant to the authority contained in 47 CFR 0.91(a), 0.204, 0.291 and 1.3, enforcement of the requirement that Telecommunications Relay Services must be capable of handling coin sent-paid calls, as required by 47 CFR 64.604(a)(3), IS SUSPENDED pending the publication in the **Federal Register** of final rules adopted in this proceeding.

18. Common carriers providing telephone voice transmission services, and TRS providers, shall continue to make payphones accessible to TRS users pursuant to the terms of the Alternative Plan set forth in the *1997 Suspension Order.*

19. Pursuant to sections 1, 2, 4, 225, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 303(r), the Second Further Notice of Proposed Rulemaking is hereby Adopted.

20. The Commission's Consumer Information Bureau, Reference Information Center, Shall Send a copy of this Second Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration.

21. The Initial Regulatory Flexibility Analysis for this Second Further Notice of Proposed Rulemaking, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 604, is contained herein.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–8392 Filed 4–4–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[ET Docket No. 98–206, RM–9147, RM–9245, DA 01–754]

Multichannel Video and Data Distribution Service (MVDDS)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time period.

SUMMARY: On March 23, 2001, the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau released an order extending the *Further Notice of Proposed Rulemaking* reply comment period in ET Docket No. 98–206 from

March 26, 2001 to April 5, 2001. The extension was requested to allow parties filing reply comments in this proceeding more time to evaluate and respond to the voluminous comments filed by other parties.

DATES: Reply comments are due on or before April 5, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20054.

FOR FURTHER INFORMATION CONTACT: Jennifer Burton, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418–0680.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Order Extending Reply Comment Period* (*Order*), adopted, March 23, 2001, and released, March 23, 2001. The full text of the *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037.

2. On March 21, 2001, DIRECTV, Inc. and EchoStar Satellite Corporation jointly filed a motion, pursuant to § 1.46 of the Commission's Rules, to extend the period for filing reply comments to the *Further Notice of Proposed Rule Making*, 66 FR 7607, in the above-captioned proceeding from March 26, 2001 to April 26, 2001. In response, Northpoint Technology, Ltd. and Broadwave USA, Inc. filed an Opposition to Motion for Extension of Time on March 23, 2001. For the reasons discussed below, we extend the reply comment period from March 26, 2001 to Thursday, April 5, 2001.

3. The Motion requests an extension of time to address the ''voluminous comments'' filed by a number of parties. It argues that no prejudice will result from the grant of the extension because there are other matters that need to be performed by third parties before the Commission can resolve the outstanding issues in this proceeding. The Opposition, on the other hand, contends that it is in the public interest to resolve this matter on a more expedited basis and that a thirty-day extension is simply not appropriate under such circumstances.

4. The Commission's general policy is that extensions of time are not routinely granted. Moreover, the Commission specifically disfavors requests for extensions of time filed on such short notice. Nevertheless, we still consider and, in certain instances, grant limited requests for extensions of time where we find that the public interest would be best served by a more complete discussion of the matters pending before the Commission. We believe that it is in the public interest to decide this matter with the most complete and well-developed record possible. After weighing the parties' arguments, we find that a moderate extension of time is appropriate under the circumstances presented. We believe that a moderate extension of time appropriately balances the interests of commenting parties without unreasonably delaying the resolution of the proceeding. Therefore, we will grant a ten-day extension of time for the filing of reply comments. As a result, reply comments must be filed on or before April 5, 2001.

5. It is hereby ordered that pursuant to Section 1.46 of the Commission's Rules, 47 CFR 1.46, the request of DIRECTV, Inc. and EchoStar Satellite Corporation to extend the deadline for filing reply comments in this proceeding, filed March 21, 2001, is granted in part and denied in part to the extent indicated.

6. This action is taken under delegated authority pursuant to §§ 0.131 and 0.331 of the Commission's Rules, 47 CFR 0.131, 0.331.

List of Subjects in 47 CFR Part 101

Communications equipment, Radio.

Federal Communications Commission.

Kathleen O'Brien Ham,

Deputy Chief, Wireless Telecommunications Bureau.

[FR Doc. 01–8393 Filed 4–4–01; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH32

Endangered and Threatened Wildlife and Plants; Determination of Whether Designation of Critical Habitat Is Prudent for the Rock Gnome Lichen

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of proposed finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have reconsidered our findings concerning whether designating critical habitat for the rock gnome lichen (*Gymnoderma lineare*) would be prudent. The rock gnome lichen was listed as an endangered species under the Endangered Species Act of 1973, as amended (Act), on January 18, 1995. At the time the plant was listed, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the species.

We repropose that the designation of critical habitat is not prudent for the rock gnome lichen, because it would likely increase the threat from collection, vandalism, or habitat degradation and destruction, both direct and inadvertent.

We solicit data and comments from the public on all aspects of this proposed finding. We may revise this proposed finding to incorporate or address comments and new information received during the comment period.

DATES: We will consider comments received by June 4, 2001.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.

2. You may hand-deliver written comments to our Asheville Field Office, at the above address or fax your comments to 828/258–5330.

3. You may send comments by electronic mail (e-mail) to nora_murdock@fws.gov. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section.

Comments and materials received, as well as supporting documentation used in preparation of this proposed finding, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nora A. Murdock, Fish and Wildlife Biologist, (828)258–3939.

SUPPLEMENTARY INFORMATION:

Background

Taxonomy and Description

Gymnoderma lineare, first described by Evans (1947) as *Cladonia linearis* from material collected in Tennessee, is a squamulose lichen in the reindeer moss family. This species is the only member of its genus occurring in North America (Yoshimura and Sharp 1968). *Gymnoderma* was considered a monotypic genus for over a century, until its revision by Yoshimura and Sharp (1968). These authors reclassified Evans' (1947) *Cladonia linearis* as

Gymnoderma lineare on the basis of its short and solid podetia (hollow upright structures) that lack symbiotic algae (algae that live cooperatively with a fungus). *Gymnoderma lineare* occurs in rather dense colonies of narrow straps (squamules). The only similar lichens are the squamulose species of the genus *Cladonia*. *Gymnoderma lineare* has terminal portions of the strap-like individual lobes that are blue-grey on the upper surface and generally shiny-white on the lower surface; near the base they grade to black (unlike squamulose *Cladonia,* which are never blackened toward the base) (Weakley 1988, Hale 1979). Hale's (1979) description of the species reads as follows: ''Squamules dark greenish mineral grey; lower surface white to brownish toward the tips, weakly corticated; podetia lacking but small clustered apothecia common on low tips.'' Weakley (1988) further describes the species as having squamules about 1 millimeter (mm) (0.04 inches (in)) across near the tip, tapering to the blackened base, sparingly branched, and generally about 1 to 2 centimeters (cm) (0.39 to 0.79 in) long (though they can be longer or shorter, depending upon environmental factors). The squamules are nearly parallel to the rock surface, but the tips curl away from the rock, approaching or reaching a perpendicular orientation to the rock surface. The fruiting bodies (apothecia) are borne at the tips of the squamules and are black (contrasting to the brown or red apothecia of *Cladonia* spp.) (Weakley 1988). The apothecia are borne singly or in clusters, usually at the tips of the squamules but occasionally along the sides; these have been found from July through September (Evans 1947, North Carolina Natural Heritage Program records 1991). The apothecia are either sessile or borne on short podetia 1 to 2 mm (0.04 to 0.08 in) in height, and the largest of these have a diameter of about 1 mm (0.04 in), with most being much smaller. The apothecia are cylindrical in shape and radial in symmetry (Evans 1947). The primary means of propagation of this lichen appears to be asexual, with colonies spreading clonally.

Distribution, Habitat, and Life History

Gymnoderma lineare (Evans) Yoshimura and Sharp is endemic (native to a particular region) to the Southern Appalachian Mountains of North Carolina, Tennessee, South Carolina, and Georgia, and occurs only in areas of high humidity, either on high-elevation cliffs, where it is frequently bathed in fog, or in deep river gorges at lower elevations. It is primarily limited to vertical rock faces, where seepage water from forest soils above flows at (and only at) very wet times, and large stream side boulders, where it receives a moderate amount of light but not high-intensity solar radiation. It is almost always found growing with the moss *Andreaea* in these vertical intermittent seeps. This association makes it rather easy to search for, due to the distinctive reddish-brown color of *Andreaea* that can be observed from a considerable distance (Weakley 1988). Most populations occur above 1,524 meters (5,000 feet) elevation. In Tennessee, it is apparently limited to the Great Smoky Mountains and one other mountain on the North Carolina-Tennessee state line. Very little specific information is known on the life history and population biology of the rock gnome lichen. Other common species found growing with or near this species include *Huperzia selago, Stereocaulon* sp., *Scirpus cespitosus, Carex misera, Rhododendron* spp., *Saxifraga michauxii, Krigia montana, Heuchera villosa, Geum radiatum,* and sometimes *Juncus trifidus*. The high-elevation coniferous forests adjacent to the rock outcrops and cliffs most often occupied by the species are dominated by red spruce (*Picea rubens*) and Fraser fir (*Abies fraseri*).

Forty populations of *Gymnoderma lineare* have been reported historically; thirty-five remain in existence. The remaining populations are in Mitchell (two), Jackson (five), Yancey (four), Swain (one), Transylvania (four), Buncombe (four), Avery (two), Ashe (two), Haywood (one) and Rutherford (one) Counties, North Carolina; Greenville County (one), South Carolina; Rabun County (one), Georgia; and Sevier (seven) and Carter (part of this population is on the State line with Mitchell County, North Carolina) counties, Tennessee.

Threats

Five populations of rock gnome lichen are known to have been completely extirpated. The reasons for the disappearance of the species at most of these sites are undocumented; however, one population is believed to have been destroyed by highway construction. The explanation for the disappearance of the other four is a mystery. Among the other populations that still survive, one has been vandalized, and portions of two others are known to have been illegally collected. Although these acts of vandalism and collection did not completely eliminate the species at those latter sites, they did seriously reduce the population sizes, and may well have adversely affected the species' chances of long-term survival at those places. Most of the formerly occupied sites are subjected to heavy recreational use by hikers, climbers, and sightseers, which can be highly destructive to the fragile plant communities that occupy vertical rock faces.

The majority of the high-elevation spruce-fir forests of the Southeast have suffered extensive changes and declines in extent and/or vigor during the past century as a result of several factors, including site deterioration due to the logging and burning practices of the early 1900's, possibly atmospheric pollution, exposure shock, and other factors not yet fully understood (Dull et al., 1988; White 1984). However, the greatest threat to the high-elevation Fraser fir forests, by far, is infestation by the balsam wooly adelgid (*Adelges picea* (Ratzeburg) (Homoptera, Adelgidae)). The balsam wooly adelgid is a nonnative insect pest believed to have been introduced into the Northeastern United States from Europe around 1900 (Eagar 1984). The adelgid was first detected in North Carolina on Mount Mitchell in 1957 (Hoffard *et al.,* 1995), though it may have been established at that site as early as 1940. From Mount Mitchell, the adelgid spread to Fraser fir stands throughout the Southern Appalachians (Eager 1984). All ages of fir trees are attacked by the adelgid, but effects are generally not lethal until the trees reach maturity, at around 30 years of age (Hoffard *et al.* 1995). Most mature Fraser firs are easily killed by the adelgid, with death occurring within 2 to 7 years of the initial infestation (Eagar 1984). The death of the fir trees and the resultant opening of the forest canopy causes the remaining trees (including the red spruce) to be more susceptible to wind and other storm damage. The adelgid is transported and spread primarily by the wind but may also be spread by contaminated nursery stock; on the fur or feathers of animals and birds; or by humans on contaminated clothes, equipment, or vehicles (Eagar 1984). All efforts to control the spread of the adelgid have failed thus far. The death of the forests above the rock faces occupied by the rock gnome lichen has resulted in locally drastic changes in microclimate, including desiccation and increased temperatures which can prove lethal to this species.

The continued existence of this species is threatened by trampling and associated soil erosion and compaction, other forms of habitat disturbance due to heavy recreational use of some inhabited areas by hikers, climbers, and

sightseers, as well as by development for commercial recreational facilities and residential purposes. It is also threatened by collectors and vandals, and is potentially threatened by logging, and possibly by air pollution. In addition, the extremely limited and restricted range of each of the rock gnome lichen populations makes them extremely vulnerable to extirpation from a single event. Currently, no one has succeeded in propagating the rock gnome lichen.

Only 7 of the remaining 35 populations cover an area larger than 2 square meters (m^2) (2.4 square yards (yd^2). Most are 1 m^2 (9 square feet (ft^2) or less in size. It is unknown what constitutes a genetic individual in this species, and it is possible that each of these small colonies or patches consists of only a single clone (Weakley 1988). Over the past decade several of the currently extant populations have undergone significant declines (Paula DePriest, Smithsonian Institution, personal communication, 1992; Karin Heiman, Environmental Consultant, personal communication, 1992), some within as little as 1 year (Alan Smith, Environmental Consultant, personal communication, 1992). Although most of the remaining populations are in public ownership, they continue to be impacted by collectors, recreational use, and unknown environmental factors.

In a recent study funded cooperatively by the Service and the U.S. Forest Service, experts in lichenology and air pollution attempted to determine if air pollution constituted a significant threat to the rock gnome lichen, as it does to many lichen species. The study could not conclusively link documented declines with atmospheric pollutants. Heavy metal concentrations did not exceed toxic levels. However, the lowest sulfur concentrations were measured in the colonies having the best health status, and the highest in colonies with the worst health conditions. The authors of the study warned that future increases in sulfur compound deposition might cause damage to rock gnome lichen, especially where it occurs on substrates with low buffering capacity. The results of the study were further complicated by the discovery of parasitic algae and lichens that were found to be attacking the rock gnome lichen in several populations. The relationship between these parasitic organisms and environmental factors such as sedimentation, and accumulation of sulfur and phosphorus requires further study (Martin *et al* 1996).

Previous Federal Actions

Federal Government actions on *Gymnoderma lineare* began with the 1990 publication in the **Federal Register** of a revised notice of review of plant taxa for listing as endangered or threatened species (55 FR 6184); *Gymnoderma lineare* was included in that notice as a category 2 species. Prior to 1996, a category 2 species was one that we were considering for possible addition to the Federal List of Endangered and Threatened Wildlife and Plants, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. We discontinued designation of category 2 species in the February 28, 1996, Notice of Review (61 FR 7956).

Subsequent to the 1990 notice, the Service received additional information from the North Carolina Natural Heritage Program (Alan Weakley, North Carolina Natural Heritage Program, personal communication, 1991) and the Smithsonian Institution (Paula DePriest, personal communication, 1992); this information and additional field data gathered by us, the North Carolina Natural Heritage Program, and the National Park Service (Keith Langdon and Janet Rock, Great Smoky Mountains National Park, personal communication, 1992; Bambi Teague, Blue Ridge Parkway, personal communication, 1991) indicated that the addition of *Gymnoderma lineare* to the Federal Candidate List of endangered or threatened plants was warranted. A candidate species is a species for which we have on file sufficient information to propose it for protection under the Act.

The Service approved this species for elevation to category 1 status on August 30, 1993, and proposed it for listing as endangered on December 28, 1993 (58 FR 68623). The proposal provided information on the species' range, biology, status, and threats to its continued existence. The proposal included a proposed determination that designation of critical habitat was not prudent for the species because such designation would not be beneficial and could further threaten the rock gnome lichen. Through associated notifications, we invited comments on the proposal and factual reports or information that might contribute to the development of a final rule. We contacted and requested comments from appropriate Federal and State agencies, county governments, scientific organizations, individuals knowledgeable about the species or its habitat, and other interested parties. We published legal notices, which invited public comment, in newspapers covering the range of the rock gnome lichen. We received 15 written comments. Eleven of these expressed strong support for the proposal, as presented, without critical habitat. One commenter presented additional information without stating a position. One additional respondent took no position on the proposal but expressed a negative view toward the potential designation of critical habitat. Two respondents opposed the proposal: one stated no reason for opposition; the other expressed the opinion that logging was not a potential threat to the lichen and that extinction is a natural process. One of those on record as supporting the proposal with no critical habitat designation was the Southern Appalachian Biodiversity Project (plaintiff in the current settlement discussed below against the Service for non-designation of critical habitat for this species).

Following our review of all the comments and information received throughout the listing process, by final rule (60 FR 3557) dated January 18, 1995, we listed the rock gnome lichen as endangered. We addressed all the comments received throughout the listing process and/or incorporated changes into the final rule as appropriate. That decision included a determination that the designation of critical habitat was not prudent for the rock gnome lichen because, after a review of all the available information, we determined that such designation would not be beneficial to the species and that designation of critical habitat could further threaten the lichen (see ''Prudency Determination'' section).

On June 30, 1999, the Southern Appalachian Biodiversity Project and the Foundation for Global Sustainability filed a lawsuit in United States District Court for the District of Columbia against the Service, the Director of the Service, and the Secretary of the Department of the Interior, challenging the not prudent critical habitat determinations for four species in North Carolina—the spruce-fir moss spider (*Microhexura montivaga*), Appalachian elktoe (*Alasmidonta raveneliana*), Carolina heelsplitter (*Lasmigona decorata*), and rock gnome lichen. On February 29, 2000, the U.S. Department of Justice entered into a settlement agreement with the plaintiffs in which we agreed to reexamine our prudency determination for the rock gnome lichen and submit a new proposed prudency determination to the **Federal Register**, by April 1, 2001. If prudent, we also agreed to submit by that same date a new proposed critical habitat

determination. If, upon consideration of all available information and comments, we determine that designating critical habitat is not prudent for the rock gnome lichen, we have agreed to submit a final notice of that finding to the **Federal Register** by October 1, 2001. If we determine that designation of critical habitat is prudent for the rock gnome lichen, we have agreed to send a final rule of this finding to the **Federal Register** by January 1, 2002.

This proposed finding is the product of our reexamination of our prudency determination for the rock gnome lichen and reflects our interpretation of the recent judicial opinions on critical habitat designation and the standards placed on us for making a ''not prudent'' determination. If additional information becomes available on the species' biology, distribution, and threats, we may reevaluate this proposed finding.

Prudency Determination

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is determined to be endangered or threatened. Regulations under 50 CFR 424.12(a)(1) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. In our January 18, 1995, final rule, we determined that both situations applied to the rock gnome lichen.

The regulations that provide protection for critical habitat come into play through section 7 of the Act. Requirements under section 7 of the Act apply only to Federal actions and activities. They require Federal agencies to ensure, in consultation with us, that activities they fund, authorize, or carry out are not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of designated critical habitat. Regulations for the implementation of section 7 of the Act (50 CFR 402.2) provide for both a ''jeopardy'' standard and an ''adverse modification or destruction of critical habitat'' standard.

Because of the extremely restricted range and limited amount of suitable habitat available to the rock gnome lichen, we determined in the January 18, 1995, final rule that any action that would likely result in the destruction or adverse modification of the species' habitat would also likely jeopardize the species' continued existence. Since Federal actions resulting in jeopardy are also prohibited by section 7, we determined that designation of critical habitat would not provide any additional protection benefitting the species beyond that provided by the jeopardy standard.

Further, we have documented evidence that collecting and other human disturbance have already detrimentally affected this species. Concern that the species would be over-collected by lichenologists led Mason Hale to state emphatically in his 1979 book, *How To Know the Lichens,* which is the standard reference for lichen identification for amateurs and professionals alike; ''This [rock gnome lichen] is one of the most unusual endemic lichens in North America and should not be collected by individuals.'' Nevertheless, populations of rock gnome lichen have been decimated by scientific collectors. Paula DePriest (Smithsonian Institution, personal communication, 1992) observed that the type locality for rock gnome lichen was virtually wiped out by lichenologists who collected them during a field trip, in spite of the fact that this collection within a national park was not permitted. After the species was listed, another illegal collection occurred at a different location within a national park. Another population outside the park was vandalized for unknown reasons (the lichens were scraped off the rock to form graffiti). Illegal collection and/or vandalism is difficult to document, but is suspected as a possible cause for the precipitous declines in some of the other populations that are close to trails or roads. Some of these populations have been reduced in coverage by as much as 90 percent in a single year. A state park in South Carolina, upon discovering a small population of this species close to an existing trail, relocated the trail away from the rock face to deter potential collectors.

The National Park Service, which developed the recovery plan for this species in cooperation with the Service, requested that we remove any mention of particular mountains from the recovery plan because they feared that this would give enough information to knowledgeable collectors to allow them to find the lichen and collect it. Park Service personnel believe that divulging locations or producing maps of rock gnome lichen habitat would greatly compromise their ability to protect the species within the national parks where it occurs (K. Langdon, J. Rock, National Park Service, personal communication, 1999).

Three internationally recognized lichen experts are on record as being opposed to making public the specific locations of rare lichens because of the danger from collectors (P. DePriest, Smithsonian Institution, personal communication, 2000; J. Dey, Illinois Wesleyan University, personal communication, 2000; J. Martin, Eurouniversity, Estonia, personal communication, 2000). Dr. Paula DePriest, Associate Curator in Charge of Lichen Collections at the National Museum of Natural History, Smithsonian Institution, emphasized that the Smithsonian deliberately deletes location data for rare lichens from its publically disseminated database. She further related several incidents of damaging collections of rare lichens in areas within the range of rock gnome lichen. In at least one instance, this collecting was done on a field trip led by professional lichenologists who had forewarned the participants that no collecting of rare species would be tolerated; the rarest species were collected anyway when the field trip leaders were not looking. Dr. Juri Martin, Rector of Estonia's Eurouniversity, further emphasized the danger of making public the locations of rare lichen species. In Estonia, as well as in Italy, Switzerland, and other European countries, databases with specific location data for rare lichen species are kept in guarded locations where only a few professionals have access to them. They are never made public because of the danger of collecting. Dr. Martin emphasized that in these countries, even though there are regulations prohibiting the collection of these rare species, those laws have been found to be ineffective; the only real protection for those lichens is the safeguarding of specific location data and maps. Nothing more specific than county or forest distribution is ever made public. Dr. Martin recommended that rock gnome lichen be included on the World Red List of Endangered Lichens. Dr. Jon Dey, eminent lichenologist at Illinois Wesleyan University, further emphasized that he believed it would be inadvisable to publish specific location data for endangered lichen species, since the general public and hobbyists could, as a result, inadvertently or even purposely damage them. He further stated his belief that, although it might be necessary to allow legitimate professionals access to a single closely monitored population for the purposes of observation and research, that even

scientists should not be able to collect endangered lichens from the wild.

The Great Smoky Mountains National Park has recently undertaken an All Taxa Biodiversity Inventory; in the process of this comprehensive survey, experts on different taxa from all over the world are being brought into this half-million acre park to inventory and document occurrences of all species within its boundaries. In the process of this ambitious inventory, several watersheds within the Park were identified by experts as having internationally significant concentrations of rare bryophytes and lichens, and the guest scientists petitioned the Park Service to formally designate these areas as lichen/bryophyte sanctuaries (K. Langdon, pers. com. 2000). The Park Service declined because of their fear of attracting collectors to the areas; not only collectors of rare species, but indiscriminate moss collectors who routinely ravage the Park and the adjacent National Forests for ''log moss'' to sell in mass quantities (truck loads have been confiscated from poachers in the Great Smokies) in the commercial florist trade.

Rock gnome lichen is extremely fragile and is easily scraped off its rocky substrate; denuded habitat is not re-colonized quickly, if at all. Because this species occupies such limited areas (with most of the populations being less than a square meter in size), even a single person climbing on a rock face could cause significant damage to the species and its habitat that could lead to the extirpation of an entire population. Increased visits to population locations stimulated by critical habitat designation, even without deliberate collecting, could adversely affect the species due to the associated increase in trampling of its fragile habitat. We believe that the designation of critical habitat and the required public dissemination of maps and descriptions of occupied sites could result in the demise or severe diminishment of this species. The moss collectors or poachers (referred to above) that the Park Service is trying to combat have been caught leaving the Great Smoky Mountains National Park (Park) with dump truck loads full of moss and anything that looks like moss including lichens, liverworts, and other bryophytes. Many species of moss and lichens are superficially similar in appearance and are similarly decorative in floral arrangements. Earlier, we mentioned that the rock gnome lichen is almost always found growing with the moss *Andreaea.* These collectors or poachers are indiscriminate, stripping everything moss-like from logs, rocks, and trees within entire coves and watersheds. This includes essentially anything they think can be sold in the commercial florist trade. The largest and best remaining populations of rock gnome lichen are located within the Great Smoky Mountains National Park, where they are more accessible and therefore more susceptible to intentional or inadvertent collection. Therefore, the Park Service has expressed concerns that attracting moss collectors to watersheds designated as sanctuaries and occupied by the endangered lichen could result in devastating incidental collection of the listed species.

The Park Service has expressed definite concerns about any plans to designate critical habitat for the rock gnome lichen because of the collection danger to this species' tiny, vulnerable populations. In fact, legislation has recently been enacted that gives the Park Service the authority to withhold from the public any specific locality data for endangered, threatened, rare, or commercially valuable resources within a park (Thomas Bill, Section 207, 16 U.S.C. 5937).

Given the very small size of most colonies and the slow growth rate of this species, extirpation by collecting, vandalism, and habitat degradation by curiosity seekers is a distinct possibility (Weakley 1988; personal observation). Many of the populations are easily accessible, being close to trails or roads, but they are currently unadvertised and therefore mostly unnoticed by the general public. Publicity could generate an increased demand and intensify collecting pressure, or facilitate opportunities for further vandalism. This species has already been subjected to excessive collecting by scientific collectors at several sites. Increased publicity and a provision of specific location information associated with critical habitat designation could result in increased collection from the remaining wild populations. Although taking of endangered plants from lands under Federal jurisdiction and reduction to possession is prohibited by the Act, these taking provisions are difficult to enforce. We believe publication of critical habitat descriptions would make rock gnome lichen more vulnerable to collectors and curiosity-seekers, and would increase enforcement problems for the U.S. Forest Service and the National Park Service. Also, the populations on private lands would be more vulnerable to taking, where they receive little or no protection under the Act.

Our fears of increased human threats to the species from publication of maps of the occupied sites is based upon specific experience, not on conjecture. Another federally listed North Carolina mountain plant for which critical habitat was designated was severely impacted by collectors immediately after the maps were published. This collection happened even though this plant was not previously known to be desired by rare plant collectors and had never been offered for sale in commercial trade. Some of the collectors appeared in the local Forest Service district offices, with the critical habitat map from the local newspaper in their hands, asking directions to the site. Such incidents are extremely difficult to document. The only reason we were able to do so in this case was because, for this very rare and restricted plant, every individual was mapped. When plants vanished from our permanent plots, we were able to find the carefully covered excavations where they had been removed. Otherwise, we would have only observed a precipitous crash in the populations without knowing that the cause was directly attributable to collection apparently stimulated by publication of specific critical habitat maps.

Increased visits to population locations stimulated by critical habitat designation, even without collection of the species, could adversely affect rock gnome lichen due to the associated increase in trampling of the fragile habitat it occupies. This might not be as serious a concern in other parts of the country where there is relatively little recreational pressure, but the Great Smoky Mountains National Park has more visitors annually than any other park in the United States. Even if just a small percentage of those people visited the sites occupied by the lichen, the potential adverse effects to the species could be tremendous and irreparable.

Another concern for this species is the fact that, despite attempts by lichenologists and tissue culture experts, no one has been able to propagate rock gnome lichen. If populations are vandalized or collected to the point of extirpation, it is not possible to restore them. Similarly, restoration of devastated populations of other lichens has often not been successful (Science News, August 2000). We believe that anything that increases the chances of losing additional populations, such as publicizing locations of remaining sites, represents an unconscionable risk to the species' chance of survival and recovery.

In addition, we believe that designation would not provide significant benefits that would outweigh these increased risks. A majority of the

remaining populations are on public lands, primarily under the jurisdiction of the United States Forest Service and National Park Service. These agencies are cooperating with us to protect the species from trampling and inappropriate collection, as well as to monitor the effects of air pollution. We are also working with the North Carolina and Tennessee Heritage Programs, the North Carolina Plant Conservation Program, and The Nature Conservancy to determine protection priorities for the remaining populations. The Nature Conservancy has recently secured a conservation easement for one of the most significant privately owned sites. We, along with all of these agencies, work to inform the public about the lichen and its importance, while at the same time ensuring the protection of the species and its habitat from potential threats. Within the National Parks, there is no commercial logging. Occupied sites outside the Parks are almost exclusively on steep rock faces and cliffs where no federal projects are likely to occur. In cases where excessive degradation of the lichen's cliff habitat has resulted from recreational overuse, both the National Park Service and the U.S. Forest Service have acted to close those sensitive areas to the public. No greater protection would be afforded by critical habitat designation.

The Service has always recognized the value of habitat to the conservation of endangered and threatened species, and continues to work with other agencies and non-federal land managers to accomplish the most effective protection and management of lands critical to the survival of listed species. The Federal and State agencies and landowners involved in managing the habitat of this species have been informed of the species' locations and of the importance of protection. In addition, we are working with several private landowners of significant sites to protect the populations on their lands. Although we have not yet been able to definitively link population declines in rock gnome lichen to air pollution, we remain concerned that air quality may be an important factor for this species, as it is for many other lichens. The largest and best remaining populations of rock gnome lichen are within the Great Smoky Mountain National Park, which is designated by the Environmental Protection Agency as a Class I Air Quality Area, where no degradation of air quality is allowed. Therefore, designation of areas of the Park as critical habitat for this species would offer no additional protection of the species from air quality problems if these are determined to be a critical factor for this species' continued existence.

For species like rock gnome lichen, that have extremely small populations (most are less than 1 m^2 [approx. 9 ft^2]) and a very small, restricted range, the triggers for ''jeopardy'' and ''adverse modification'' of critical habitat under section 7 of the Act are essentially identical. Because the triggers for ''jeopardy'' and ''destruction or adverse modification'' of critical habitat both require that the Service find that a Federal action is likely to have an appreciable effect on both the survival and recovery of the species, we have determined that because of the precarious status of the species, the small size of the surviving populations, the restricted range of the species, and the limited amount of suitable habitat available to the species, any Federal action with the potential to trigger the standard for destruction or adverse modification of critical habitat would also jeopardize the species' continued existence (the jeopardy standard without critical habitat). Therefore, no additional protection would be provided to this species through designation of critical habitat that would not already be provided through the jeopardy standard. We acknowledge that critical habitat designation in some situations may provide some value to the species, for example, by identifying areas important for conservation. However for the rock gnome lichen, we have weighed the potential benefits of designating critical habitat against the significant risks of doing so, and find that the minor benefits of designating critical habitat do not outweigh the potential increased threats from collection, vandalism, and inadvertent habitat degradation caused by curiosity-seekers. Therefore, we propose that designation of critical habitat for the rock gnome lichen is not prudent.

Secretarial Order 3206: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities and the Endangered Species Act

In accordance with the Presidential Memorandum of April 29, 1994, and Executive Order 13175, we are required to assess the effects of determinations on tribal land and tribal trust resources. We propose that designation of critical habitat for the rock gnome lichen is not prudent. Therefore, we do not anticipate any effects on tribal trust resources if this proposed finding is made final.

Public Comments Solicited

We intend that any final action resulting from this proposed finding will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested party concerning this proposed finding. We particularly seek comments concerning whether designating critical habitat for the rock gnome lichen is prudent, and the possible risks and benefits of such designation.

Please submit comments as an ASCII file format and avoid the use of special characters and encryption. Please also include ''Attn: [1018–AH32]'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Asheville Field Office (see **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed finding. The purpose of such review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed finding immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed non-designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed finding during preparation of a final finding. Accordingly, the final decision may differ from this proposed finding.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this document easier to understand, including answers to questions such as the following: (1) Are the requirements in the document clearly stated? (2) Does the document contain unnecessary technical language or jargon that interferes with the clarity? (3) Does the format of the proposed finding (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the notice? (5) What else could we do to make the notice easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may e-mail your comments to this address: Execsec@ios.doi.gov.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed finding does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq*. This proposed finding will not impose new record-keeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this proposed finding is available upon request from the Asheville Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Nora Murdock (see **ADDRESSES** section).

Dated: March 29, 2001.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–8344 Filed 4–4–01; 8:45 am]

BILLING CODE 4310–55–U

Notices

Federal Register
Vol. 66, No. 66
Thursday, April 5, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: This notice announces a public comment period on the information collection requests (ICRs) associated with crop insurance policies administered by Federal Crop Insurance Corporation (FCIC).

DATES: Written comments on this notice will be accepted until close of business June 4, 2001.

ADDRESSES: Interested persons are invited to submit written comments to the Risk Management Education Division, Risk Management Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., Stop 0808, Portals Building, 5th Floor, Suite 508, Washington, DC, 20250–0808.

FOR FURTHER INFORMATION CONTACT: For further information contact Craig Witt, Director, Risk Management Education Division, Risk Management Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., Stop 0808, Portals Building, 5th Floor, Suite 508, Washington, DC, 20250–0808.

SUPPLEMENTARY INFORMATION:

Title: Dairy Options Pilot Program; DOPP III.

OMB Number: 0563–0058.

Expiration Date of Approval: February 29, 2004.

Type of Request: Extension of a currently approved information collection.

Abstract: Section 191 of the Federal Agriculture Improvement and Reform Act (FAIR) of 1996 authorizes the Secretary of Agriculture (Secretary) to conduct a pilot program for one or more agricultural commodities to determine the feasibility of the use of futures and options as risk management tools to protect producers from fluctuations in price, yield and income. Accordingly, the Secretary directed RMA to develop DOPP. Section 134 of the Agricultural Risk Protection Act (ARPA) of 2000 amends section 191 of FAIR. In doing so, an expansion of eligible pilot counties to a maximum of 300 is authorized, except that no more than 25 counties may be in any one State.

The purpose of this notice is to announce the availability of DOPP in new States and counties and provide the new terms and conditions of the program.

DOPP is intended to offer an educational experience to dairy producers whose need for risk management tools has risen sharply as a result of unprecedented price volatility, the reduction of price supports, and the current unavailability of production or price insurance. The program represents a joint initiative between RMA and the private sector. DOPP procedures were first proposed to RMA by the Coffee, Sugar & Cocoa Exchange (CSCE), known as the New York Board of Trade (NYBOT). During the development of this program, the Chicago Mercantile Exchange (CME) provided additional recommendations. The intended educational benefits of DOPP include the preparation of producers to manage their price risk independently through the milk futures and options markets.

We are asking the Office of Management and Budget (OMB) to extend its approval of our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public concerning this information collection activity. These comments will help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1.0 hours per response.

Respondents/Affected Entities: Parties affected by the information collection requirements included in this Notice are dairy producers, and brokers.

Estimated annual number of respondents: 9,625.

Estimated annual number of responses per respondent: 6.9.

Estimated annual number of responses: 36,300.

Estimated total annual burden on respondents: 38,015.

All responses to this notice will be summarized and included in the request from OMB approval. All comments will also become a matter of public record.

Signed in Washington, DC, on March 29, 2001.

Phyllis W. Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–8416 Filed 4–4–01; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: This notice announces a public comment period on the information collection requests (ICRs) associated with crop insurance policies administered by Federal Crop Insurance Corporation (FCIC).

DATES: Written comments on this notice will be accepted until close of business June 4, 2001.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture (USDA), 6501 Beacon Drive, Kansas City, MO 64133.

FOR FURTHER INFORMATION CONTACT: Dave Clauser, Supervisory Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Title: Multiple Peril Crop Insurance.

OMB Number: 0563–0053.

Expiration Date of Approval: April 30, 2001.

Type of Request: Extension of a currently approved information collection.

Abstract: FCIC is renewing the currently approved information collection package number 0563–0053. It is currently up for renewal and extension for three years. FCIC is conducting a thorough review of information collections associated with its crop insurance policies. FCIC is using data elements in this renewal package instead of form standards. The information collected by FCIC allows it to provide an actuarially sound insurance program for producers and increases producers' risk management options. The information is collected by insurance companies reinsured by FCIC, crop insurance agents, and FCIC. The Federal Crop Insurance Corporation requires several data elements to be reported to them. This information comes from the producer applying for crop insurance, the insurance company accepting and issuing crop insurance policies and determining insurance coverage, premiums, the amount of production and loss, and indemnities. This data is used to administer the Federal crop insurance program in accordance with the Federal Crop Insurance Act, as amended.

The collections identified in this notice also provide FCIC with data for establishing new and different types of insurance coverage or crop options to increase insurance protection. Policy provisions and options permit producers to personalize their insurance coverage through written agreements which allow deviations from the written policy. Producer may elect exclusion for hail and fire or high risk land, etc.

Since crops differ significantly, FCIC customizes its required information collections for each crop that it insures. The type and amount of information determined by FCIC as necessary to establish and maintain the crop insurance program must also be reasonable, and FCIC must take into consideration the time and cost to producer, insurance providers, insurance agents, and loss adjusters. FCIC is reviewing the burden calculation in preparation of applying for renewal of OMB approval of its information collections.

We are asking the Office of Management and Budget (OMB) to extend its approval of our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public concerning this information collection activity. These comments will help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.4 hours per response.

Respondents/Affected Entities: Parties affected by the information collection requirements included in this Notice are producers, insurance companies reinsured by FCIC, and insurance agents.

Estimated annual number of respondents: 1,304,390.

Estimated annual number of responses per respondent: 2.6.

Estimated annual number of responses: 3,345,415.

Estimated total annual burden on respondents: 1,194,316.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed in Washington, D.C., on March 29, 2001.

Phyllis W. Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–8417 Filed 4–4–01; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

McCaslin Project; Chequamegon-Nicolet National Forest, Oconto and Forest Counties, WI

AGENCY: Forest Service, USDA.

ACTION: Notice; Intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of proposed land management activities, and corresponding alternatives, within the McCaslin project area.

The purpose of the McCaslin project is to implement land management activities that are consistent with direction in the Nicolet National Forest Land and Resource Management Plan (Forest Plan) and respond to specific needs identified in the project area. The project-specific needs include addressing: forest age and composition, stand tending and reforestation, road closures, erosion control, fish and wildlife habitat maintenance and improvement, and archaeological evaluation and interpretation.

The McCaslin project area is located primarily on National Forest System lands, administered by the Lakewood/Laona Ranger District, north of Lakewood, Wisconsin. The legal description for the project area is: Township 33 North, Range 15 East, sections 1–3, 11–14, and 24–25; Township 33 North, Range 16 East, sections 1–11, 14–23, and 27–30; Township 33 North, Range 17 East, sections 5 and 6; and Township 34 North, Range 16 East, Sections 16, 17, 20–29, and 32–36; Fourth Principal Meridian.

DATES: Comments concerning the proposed land management activities should be received on or before May 7, 2001 to receive timely consideration in the preparation of the draft EIS.

ADDRESSES: Send written comments concerning the proposed land management activities or requests to be placed on the project mailing list to: Edward C. Wenger, District Ranger, Lakewood/Laona Ranger District, 15085 State Rd. 32, Lakewood, Wisconsin 54138.

FOR FURTHER INFORMATION CONTACT: John Lampereur, Project Leader/NEPA Coordinator, Lakewood/Laona Ranger District, 15085 State Rd. 32, Lakewood, Wisconsin 54138, phone (715) 276–6333.

SUPPLEMENTARY INFORMATION: The information presented in this notice is included to help the reviewer determine if they are interested in or potentially affected by the proposed land management activities. The information presented in this notice is summarized. Those who wish to provide comments, or are otherwise interested in or affected by the project, are encouraged to obtain additional information from the contact identified in the For Further Information Contact section.

Proposed Actions

The proposed land management activities (proposed actions) include the following, with approximate acreage and mileage values: (1) Forest Age and Composition—selection harvest 4,758 acres, thin 2,672 acres, clearcut harvest 1,113 acres, overstory removal harvest 231 acres, shelterwood harvest 28 acres, and seed tree harvest 2 acres (other actions needed include 2.9 miles of road construction, 23.4 miles of road reconstruction, and 6.0 miles of temporary road reopening); (2) Stand Tending and Reforestation—hand release 314 acres of young plantations, prescribe burn 222 acres, plant 277 acres of white pine, white spruce, and eastern hemlock in the understories of existing stands, thin the overstory of 160 acres, and temporary fence the thinned area; (3) Road Closures—close and reclassify 1.2 miles of roads as Class 2 System Roads, and close and remove from the Forest's classified road system 21.9 miles of roads; (4) Erosion Control—reconstruct 50 feet of trail in the area of the dispersed campsite at Lincoln Lake, reconstruct 100 feet of trail in the area of the dispersed campsite at Knowles Dam, and stabilize 100 feet of bank on the North Branch Oconto River; (5) Fish and Wildlife Habitat Maintenance and Improvement—fell approximately 25 trees along the shorelines of Lincoln Lake and the North Branch Oconto River, remove in-stream debris (½ mile) and place brush bundles (500 feet) in portions of the North Branch Oconto River, construct an osprey nesting platform in an existing snag adjacent to Bluegill Creek Impoundment, hand release 141 acres in 97 wildlife openings using brush cutters, mow 31 acres in 26 wildlife openings, prescribe burn 16 acres in 2 wildlife openings (these acres are included in #2), and plant fruit-bearing shrubs in 7 acres of wildlife openings; (6) Archaeological Evaluation and Interpretation—evaluate 26 sites, protect the sites from project activities until evaluation is complete, nominate sites that appear eligible for listing in the National Register of Historical Places, and develop public interpretive opportunities at 4 identified sites by constructing interpretive signs, benches, and 50 feet of trail.

Responsible Official

The District Ranger of the Lakewood/Laona Ranger District, Ed Wenger, is the Responsible Official for making project-level decisions from the project.

Decision Space

Decision-making will be limited to specific activities relating to the proposed actions. The primary decision to be made will be whether or not to implement the proposed actions or another action alternative that responds to the project's purpose and needs.

Project History

In April of 2000, the Deer Island Project was presented to the public for comment (scoping) prior to undertaking preparation of an Environmental Assessment. During the summer of 2000, the Forest Service was developing a proposal for the adjacent McCaslin Opportunity Area. These two efforts have since been combined into one planning effort, the McCaslin Project, for which an EIS will be prepared. Years of experience have shown that the effects of implementing similar activities in the area are not significant. We therefore do not feel that an EIS is required. However, due to the increase in appeals and litigation and for wise fiscal efficiency, an EIS will be prepared for the McCaslin Project. Comments previously received for the Deer Island Project will be brought forward into the McCaslin Project.

Preliminary Issues

Comments from American Indian tribes, the public, and other agencies were considered in identifying the following preliminary issues: effects to Threatened, Endangered, and Sensitive species; effects to Management Indicator Species; effects from road construction and road closures; effects to motorized recreational access.

Public Participation

The Forest Service is seeking comments from Federal, State, and local agencies, as well as local Native American tribes and other individuals or organizations that may be interested in or affected by the proposed actions. Comments received in response to this notice will become a matter of public record. While public participation is welcome at any time, comments on the proposed actions received within 30 days of this notice will be especially useful in the preparation of the draft EIS. Timely comments will be used to identify: potential issues with the proposed actions, alternatives to the proposed actions that respond to the identified needs and significant issues, and potential environmental effects of the proposed actions and alternatives considered in detail. In addition, the public is encouraged to contact and/or visit Forest Service officials at any time during the planning process.

Relation to Forest Plan Revision

The Chequamegon-Nicolet National Forest is in the process of revising and combining the existing Land and Resource Management Plans (Forest Plans) for the Chequamegon National Forest and the Nicolet National Forest, which were administratively separate at the time the Forest Plans were developed. A Notice of Intent to revise and combine the Forest Plans was issued in 1996. As part of this process, various inventories and evaluations are occurring. Additionally, the Forest is in the process of developing alternative land management scenarios that could change the desired future conditions and management direction for the Forest. A Draft Environmental Impact Statement (DEIS) will be published in the near future that will disclose the consequences of the different land management direction scenarios considered in detail. As a result of the Forest Plan revision effort, the Forest has new and additional information beyond that used to develop the existing Forest Plans. This information will be used where appropriate in the analysis of this project to disclose the effects of the proposed activities and any alternatives developed in detail.

The decisions associated with the analysis of this project will be consistent with the existing Forest Plan, unless amended, for the Nicolet. Under regulations of the National Environmental Policy Act (40 CFR 1506.1), the Forest Service can take actions while work on a Forest Plan revision is in progress because a programmatic Environmental Impact Statement—the existing Forest Plan Final EIS, already covers the actions. The relationship of this project to the proposed FP revision will be considered as appropriate as part of this planning effort.

Estimated Dates for Filing

The draft EIS is expected to be filed with the Environmental Protection Agency and available for public review in August 2001. A 45-day comment period will follow publication of a Notice of Availability of the draft EIS in the **Federal Register**. Comments

received on the draft EIS will be used in preparation of the final EIS, expected in January 2002. A Record of Decision (ROD) will also be issued at that time along with the publication of a Notice of Availability of the final EIS and ROD in the **Federal Register**.

Reviewer's Obligation To Comment

The Forest Service believes it is important at this early stage to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS must structure their participation in the environmental review of the proposal in such a way that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 513 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir, 1986), and *Wisconsin Heritages Inc.* v. *Harris,* 490 F.Supp. 1334, 1338 (E.D. Wis., 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period of the draft EIS in order that substantive comments and objections are available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: March 29, 2001.

Lynn Roberts,

Forest Supervisor, Chequamegon-Nicolet National Forest, 68 S. Stevens St., Rhinelander, WI 54501.

[FR Doc. 01–8385 Filed 4–4–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shoreline Outfitter/Guide Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revision of the notice of intent to prepare an environmental impact statement for the saltwater shoreline-based outfitter-guide capacity previously published in **Federal Register** (65 FR 2575–2576, Jan. 18, 2000). This revision is in response to public comment and includes changes in the title, proposed action, and project schedule. The project area has been expanded to include the Tracy Arm–Fords Terror Wilderness.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to authorize commercial outfitter/guide activities within the Admiralty Island National Monument and Juneau, Hoonah and Sitka Ranger Districts of the Tongass National Forest including the Tracy Arm–Fords Terror Wilderness. The analysis will consider shoreline-based commercial recreation use. The decision to prepare an EIS is a result of initial public involvement that began with public scoping in October 1998. The Record of Decision will disclose how the Forest Service has decided to allocate shoreline-based recreation capacity for commercial and noncommercial recreation uses.

The recreation capacity of the study area has been determined in a previous analysis of available shoreline recreational capacity based on the Recreation Opportunity Spectrum, Tongass Forest Plan standards and guidelines dealing with social encounters, and physical conditions such as anchorages, shoreline facilities, and resource concerns. Proposed commercial allocations are based on a percentage of the total recreation carrying capacity of individual Use Areas, or subunits within the Use Areas. Under the Proposed Action, allocation to commercial guided use would range from 10 to 40 percent of the total recreation carrying capacity within each Use Area and would depend on considerations such as season, distance from communities, subsistence use and potential impacts to resources. Areas would be identified for large group use. The Proposed Action no longer allocates commercial recreation capacity specifically to brown bear hunting guides; they are included in the general commercial allocation. The Proposed Action provides for limited commercial allocations in the spring and fall season to provide more opportunities for a primitive recreation experience. A No Action alternative and other alternatives which respond to significant issues will be developed, analyzed and compared in the Draft EIS (DEIS).

DATES: To be most useful in this analysis scoping comments should be received by May 1, 2001; however scoping comments will be accepted at any time. Comments received in response to the original Notice of Intent are included in this analysis.

ADDRESSES: Please send written comments to: Sitka Supervisor's Office, Tongass National Forest, 204 Siginaka Way, Sitka, AK 99835 Attention: Shoreline Outfitter/Guide EIS.

FOR FURTHER INFORMATION CONTACT: Bob Dalrymple, Planning Team Leader, or Mary Beth Nelson, Recreation Specialist, at the Sitka Supervisor's Office, Tongass National Forest, 204 Siginaka Way, Sitka, AK 99835 telephone (907) 747–6671.

SUPPLEMENTARY INFORMATION: The Forest Service will continue to seek information, comments, and assistance from Federal, State and local agencies, tribal organizations, individuals, and organizations that may be interested in, or affected by the proposed activities. Comments received as a result of both the earlier public involvement and the current scoping will be included in this analysis. All comments will be analyzed to identify issues to be considered in the EIS. Tentative issues for analysis in the EIS identified from previous scoping include potential effects of the allocation to economic opportunities, conflicts between commercial operations, and effects on noncommercial resident users. Impacts to wildlife habitat and other forest resources, and the effect on subsistence uses will be included in the analysis. Based on the results of scoping and the resource capabilities within the study area, alternatives including a no-action alternative will be developed, analyzed, and compared. The DEIS is projected to be filed with the EPA in May 2001. The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** Comments on the DEIS will be considered and responded to in the Final EIS (FEIS), anticipated by July 2001.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803*

F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980*). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the DEIS. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection and May be Released Under FOIA. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision (36 CFR parts 215 or 217).

Responsible Official

Fred Salinas, Assistant Forest Supervisor, Tongass National Forest, 204 Siginaka Way, Sitka, Alaska 99835–7316, is the responsible official. In making the decision, the responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies. The responsible official will state the rationale for the chosen alternative in the Record of Decision.

Dated: March 23, 2001.

Fred S. Salinas,

Assistant Forest Supervisor.

[FR Doc. 01–8402 Filed 4–4–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet at Spirit Mountain, in the Banquet Room, Grande Ronde, Oregon, on April 19, 2001. The meeting will begin at 9 a.m. and end at 3:30 p.m. The agenda will include: Survey & Manage update, Late Successional Reserve 267 Restoration Project report OR Dept. of Forestry Plan briefing, County Payments update, Monitoring update, ULEP briefing, public comments, and round-robin information sharing. Lunch will be on your own. There are several restaurants at Spirit Mountain. A fifteen-minute open public forum is scheduled at 2 p.m. Interested citizens are encouraged to attend. The committee welcomes the publics' written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541/750–7075 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: March 26, 2001.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 01–8309 Filed 4–4–01; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 19 April 2001 at 10 a.m., in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Draft agendas are available to the public one week prior to the meeting. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 29 March 2001.

Charles H. Atherton,

Secretary.

[FR Doc. 01–8403 Filed 4–4–01; 8:45 am]

BILLING CODE 6330–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

National Senior Service Corps; Schedule of Income Eligibility Levels

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and the Senior Companion Program (SCP) of the Corporation, published in 65 FR 17629 on April 4, 2000.

DATES: These guidelines are effective on April 1, 2001.

FOR FURTHER INFORMATION CONTACT: Corporation for National and Community Service, National Senior Service Corps, Attn: Ms. Ruth Archie, 1201 New York Avenue NW., Washington, DC 20525, by telephone at (202) 606–5000, ext. 289, or e-mail: rarchie@cns.gov.

SUPPLEMENTARY INFORMATION: The revised schedules are based on changes in the Poverty Guidelines issued by the Department of Health and Human Services (DHHS), published in 66 FR 10695, February 16, 2001. In accordance with program regulations, the income eligibility level for each State, Puerto Rico, the Virgin Islands and the District of Columbia is 125 percent of the DHHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living as of April 1, 2001. In such instances, the guidelines shall be 135 percent of the DHHS Poverty levels (See attached list of High Cost Areas). The level of eligibility is rounded to the next highest multiple of $5.00.

In determining income eligibility, consideration should be given to the following, as set forth in 45 CFR parts 2551–2553, dated October 1, 1999.

Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party and, must not exceed 15 percent of the applicable Corporation income guideline.

Annual income is counted for the past 12 months and includes: The applicant or enrollee's income and the applicant or enrollee's spouse's income, if the spouse lives in the same residence. Sponsors must count the value of shelter, food, and clothing, if provided at no cost the applicant, enrollee or spouse.

Any person whose income is not more than 100 percent of the DHHS Poverty Guideline for her/his specific family unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

2001 FGP/SCP INCOME ELIGIBILITY LEVELS

[Based on 125 Percent of DHHS Poverty Guidelines]

States	Family units of—			
	One	Two	Three	Four
All, except High Cost Areas, Alaska & Hawaii	$10,740	$14,515	$18,290	$22,065

For family units with more than four members, add $3,775 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii.

2001 FGP/SCP INCOME ELIGIBILITY LEVELS FOR HIGH COST AREAS

[Based on 135 Percent of DHHS Poverty Guidelines]

Area	Family units of—			
	One	Two	Three	Four
All, except Alaska, & Hawaii	$11,600	$15,750	$19,750	$23,830
Alaska	14,490	19,590	24,695	29,795
Hawaii	13,355	18,040	22,725	27,405

For family units with more than four members, add: $4,080 for all areas, $5,105 for Alaska, and $4,685 for Hawaii, for each additional member.

The income eligibility levels specified above are based on 135 percent of the DHHS poverty guidelines and are applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas

(Including all Counties/Locations Included in that Area as Defined by the Office of Management and Budget)

Alaska

(All Locations)

California

Los Angeles/Compton/San Gabriel/Long Beach/Hawthorne (Los Angeles County)
Santa Barbara/Santa Maria/Lompoc (Santa Barbara County)
Santa Cruz/Watsonville (Santa Cruz County)
Santa Rosa/Petaluma (Sonoma County)
San Diego/El Cajon (San Diego County)
San Jose/Los Gatos (Santa Clara County)
San Francisco/San Rafael (Marin County)
San Francisco/Redwood City (San Mateo County)
San Francisco (San Francisco County)
Oakland/Berkeley (Alameda County)
Oakland/Martinez (Contra Costa County)
Anaheim/Santa Ana (Orange County)
Oxnard/Ventura (Ventura County)

Connecticut

Stamford (Fairfield)

District of Columbia/Maryland/Virginia

District of Columbia and Surrounding Counties in Maryland and Virginia. MD counties: Ann Arundel, Calvert, Charles, Cecil, Frederick, Montgomery and Prince Georges, Queen Anne Counties. VA Counties: Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria City, Fairfax City, Falls Church City, Manassas City and Manassas Park City

Hawaii

(All Locations)

Illinois

Chicago/Des Plaines/Oak Park/Wheaton/Woodstock (Cook, DuPage and McHenry Counties)

Massachusetts

Barnstable (Barnstable)
Edgartown (Dukes)
Boston/Malden (Essex, Norfolk, Plymouth, Middlesex and Suffolk Counties)
Worcester (Worcester City)
Brockton/Wellesley/Braintree/Boston (Norfolk County)
Dorchester/Boston (Suffolk County)
Worcester (City) (Worcester County)

New Jersey

Bergen/Passaic/Paterson (Bergen and Passaic Counties)
Jersey City (Hudson)
Middlesex/Somerset/Hunterdon (Hunterdon, Middlesex and Somerset Counties)
Monmouth/Ocean/Spring Lake (Monmouth and Ocean Counties)
Newark/East Orange (Essex, Morris, Sussex and Union Counties)
Trenton (Mercer County)

New York

Nassau/Suffolk/Long Beach/Huntington (Suffolk and Nassau Counties)
New York/Bronx/Brooklyn (Bronx, Kings, New York, Putnam, Queens, Richmond and Rockland Counties)
Westchester/White Plains/Yonkers/Valhalla (Westchester County)

Ohio

Medina/Lorain/Elyria (Medina/Lorain County)

Pennsylvania

Philadelphia/Doylestown/West Chester/Media/Norristown (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)

Washington

Seattle (King County)

Wyoming

(All Locations)

The revised income eligibility levels presented here are calculated from the base DHHS Poverty Guidelines now in effect as follows:

2001 DHHS POVERTY GUIDELINES FOR ALL STATES

States	Family units of—			
	One	Two	Three	Four
All, except Alaska/Hawaii	$8,590	$11,610	$14,630	$17,650
Alaska	10,730	14,510	18,290	22,070
Hawaii	9,890	13,360	16,830	20,300

For family units with more than four members, add: $3,020 for all areas, $3,780 for Alaska, and $3,470 for Hawaii, for each additional member.

Authority: These programs are authorized pursuant to 42 U.S.C. 5011 and 5013 of the Domestic Volunteer Service Act of 1973, as amended. The income eligibility levels are determined by the current guidelines published by DHHS pursuant to sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: March 30, 2001.

Tess Scannell,

Acting Director, National Senior Service Corps.

[FR Doc. 01–8345 Filed 4–4–01; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Change in the Location of the Defense Finance and Accounting Service Board of Advisors

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Comptroller).

ACTION: Notice of change in meeting location.

SUMMARY: This notice sets forth a change in the location of the first meeting of the Defense Finance and Accounting Service (DFAS) Board of Advisors. The Board was originally scheduled to meet at DFAS Headquarters, 1931 Jefferson Davis Highway, Arlington, VA; that location has been changed to the Crystal City Marriott, Salon D, Potomac Ballroom, 1999 Jefferson Davis Highway, Arlington, VA.

DATES: Tuesday, April 10, 2001.

ADDRESSES: Crystal City Marriott, Salon D, Potomac Ballroom, 1999 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Ms. Codie Smith, Resource Management, DFAS, Crystal Mall 3 (Room 206) 1931 Jefferson Davis Highway, Arlington, VA 22240. Telephone (703) 607–1162. Public seating for this meeting is limited, and is available on a first-come first-served basis.

Dated: March 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8398 Filed 4–4–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory board has been scheduled as follows:

DATES: 24 & 25 April 2001 (0800am–1600pm)

ADDRESSES: National Ground Intelligence Center, 220 7th Street NE, Charlottesville, VA 22902–5396

FOR FURTHER INFORMATION CONTACT: Ms. Victoria J. Prescott, Director/Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public. The Board will receive briefings on the discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: March 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 01–8318 Filed 4–4–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Appendix 2 of title 5, United States Code, Public Law 92–463, notice is hereby given that a meeting of the Advisory Council on Dependents' Education (ACDE) is scheduled to be held from 8 a.m. to 5 p.m. on Friday, April 27, 2001. The meeting will be open to the public and will be held in the New Sanno Hotel at the U.S. Forces Center, Unit 45003, in Tokyo, Japan. The meeting will be preceded by visits by ACDE members and DoDEA representatives to DoD overseas schools in Korea, Mainland Japan, and Okinawa from April 23–25. The purpose of the ACDE is to recommend to the Director, Department of Defense Education Activity (DoDEA), general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense. The focus of this meeting will be on student achievement and progress towards organizational strategic goals. For further information contact Ms. Marsha Jacobson, at 703–696–4235, extension 1990.

Dated: March 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–8317 Filed 4–4–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety will conduct a closed session on April 13, 2001 at Science Applications International Corporation, San Diego, California.

The Joint Advisory Committee is charged with advising the Secretaries of Defense and Energy, and the Joint Nuclear Weapons Council on nuclear weapons surety matters. At this meeting the Joint Advisory Committee will receive classified briefings on nuclear weapons security and use control.

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended, Title 5 U.S.C. App. II, (1988)), this meeting concerns matters sensitive to the interests of national security, listed in 5 U.S.C. section 552b(c)(1) and accordingly this meeting will be closed to the public.

Dated: March 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8319 Filed 4–4–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense (DoD).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Intelligence Needs for Homeland Defense Follow-On Initiative will meet in closed session on April 11, 2001, at Lost Alamos National Laboratory, Albuquerque, NM, April 12–13, 2001, at Sandia National Laboratory, Albuquerque, NM. This Task Force will explore the intelligence ramifications posed by a changing spectrum of threat regimes, including biological, chemical, information, nuclear, and radiological weapons.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will: consider the broad spectrum of intelligence issues from early threat detection to deterrence, through response including attribution; evaluate the collection and analysis of target-related information and weapon unique information; examine the role of HUMINT against these missions as well as the technology that the HUMINT collectors need to be equipped with; consider strategic indications and warning and tactical warning dissemination and how the two need to be merged; analyze methodology to correlate large data flows spatially, temporally, and functionally (Low SNR); and assess the robustness of today's intelligence apparatus for coping with these challenges.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C., App. II), it has been determined that this Defense Science Board meeting, concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly these meetings will be closed to the public.

Due to critical mission requirements and scheduling conflicts, there is insufficient time to provide timely notice required by Section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101–6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR part 101–6, which further requires publication at least 15 calendar days prior to the meeting of the Task Force.

Dated: March 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8397 Filed 4–4–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Meeting Date Change

ACTION: Meeting date change.

SUMMARY: The Defense Science Board Task Force on Systems Technology for the Future U.S. Strategic Posture closed meeting scheduled for April 11–12, 2001, has been changed to April 30, 2001; May 1, 2001; and May 2, 2001. The meeting will be held at Strategic Analysis Inc., 3601 Wilson Boulevard, Suite 600, Arlington VA.

Dated: March 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8320 Filed 4–4–01; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 30, 2001.

Joe Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Safe Schools/Healthy Students Initiative.

Frequency: Semi-Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 450.

Burden Hours: 13,500.

Abstract: The U.S. Departments of Education, Health and Human Services, Justice, and Labor (Agencies) are collaborating on a Safe Schools-Healthy Students Initiative to provide students, schools, and communities with enhanced comprehensive educational, mental health, social service, law enforcement, and, as appropriate, juvenile justice system services that promote healthy childhood development and prevent violence and alcohol and other drug abuse. These services and activities target both youth's development of the social skills and emotional resilience necessary to avoid drug use and violent behavior and the establishment of school environments that are safe, disciplined, and drug-free. The Initiative also supports youth development activities that create opportunties for students to pursue postsecondary education, apprenticeships, or jobs that help them prepare for adulthood.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her internet address Kathy_Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–8391 Filed 4–4–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 3, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Applications for Grants under the Dropout Prevention Demonstration Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 200.

Burden Hours: 6,000.

Abstract: This application will be used to award grants to local educational agencies and State educational agencies for the purpose of strengthening, expanding and taking to scale dropout prevention demonstration projects that assist students at risk of dropping out to remain in school and raise standards and expectations for these students.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her internet address Kathy_Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–8562 Filed 4–4–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 7, 2001.

ADDRESSES: Written comments should be addressed to the Office of

Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 3, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Applications for Grants under the Arts in Education Demonstration and Dissemination Grant Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 60.

Burden Hours: 3,600.

Abstract: This application will be used to award grants to local educational agencies and non-profit arts organizations for the purpose of developing, documenting and disseminating innovative, research-based models which effectively integrate arts into middle and elementary school curriculum, strengthen arts instruction and improve students' academic performance, including skills in creating, performing and responding to works of art.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at Kathy_Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–8563 Filed 4–4–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration, Record of Decision for the Final Supplemental Environmental Impact Statement for the National Ignition Facility

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Record of Decision.

SUMMARY: The National Nuclear Security Administration (NNSA), a separate agency within the Department of Energy (DOE), is issuing this Record of Decision (ROD) for the National Ignition Facility (NIF), a key component of DOE's science-based stewardship of the nation's nuclear weapons stockpile. This ROD is based, in part, on the information and analysis contained in the National Ignition Facility Supplemental Environmental Impact Statement (SEIS) to the Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS) (DOE/EIS–0236–S1). Other factors that influenced the decision include mission responsibilities of the Department. DOE's decision is to continue to construct and operate the NIF as analyzed in the SSM PEIS and the SEIS. This decision constitutes the no action alternative of continuing ongoing activities (DOE's Preferred Alternative) as described in the SEIS. As a result of this decision, DOE will make no changes in the design of NIF, will undertake no deviations in construction techniques, and will impose no operational changes in the NIF.

FOR FURTHER INFORMATION CONTACT: For further information on the SEIS or this ROD, please contact Scott L. Samuelson, NIF Field Manager, U. S. Department of Energy, 7000 East Avenue, Livermore, CA 94550–9234, phone (925) 423–0593.

For information on NNSA's National Environmental Policy Act (NEPA) process, contact Henry Garson, NEPA Compliance Officer for NNSA's Defense Programs, (301) 903–0470. For information on DOE's NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, U. S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, phone (202) 586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background. The Lawrence Livermore National Laboratory (LLNL) was established in 1952 as a multi-disciplinary research and development center, and is operated by the University of California for the Department of Energy. LLNL is located in Livermore, California, about 40 miles southeast of San Francisco. LLNL consists of two portions, the main site in Livermore and the 300 Area near Tracy, California. The NIF is currently being constructed at the LLNL main site and is over 95% complete. The NIF is a part of the DOE's development of science-based, rather than underground nuclear test-based, stewardship of the nuclear weapons stockpile. In NIF, nuclear fusion of very small amounts of hydrogen isotopes is expected to be achieved using the energy inherent in laser light. The environmental consequences of construction and operation of NIF were addressed in detail in Appendix I of the SSM PEIS. The ROD for the SSM PEIS was published in the **Federal Register** on December 26, 1996 (61 FR 68014). In the ROD, DOE announced a decision to proceed with construction and operation of NIF at LLNL. Ground-breaking for NIF occurred on May 29, 1997.

On September 3, 1997, excavation activities at the NIF site uncovered capacitors containing polychlorinated biphenyls (PCB) oil and other items

(buried drums that on analysis contained no hazardous, toxic and/or radioactive material). Several of the capacitors had leaked, contaminating surrounding soil. The capacitors and surrounding soil were cleaned up in accordance with federal, state and local requirements under a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) removal action under paragraph 300.415 of the National Contingency Plan (40 CFR part 300). The possibility of such an event was unforeseen and therefore was not addressed in the SSM PEIS.

On September 22, 1997, the plaintiffs in NRDC v. Richardson, Civ. No. 97–936 (SS) (D.O.C.) filed a motion under Rule 60(b) of the Federal Rules of Civil Procedure, in which they alleged that DOE knew, but did not adequately analyze and disclose, the risk of building NIF in an area that may contain buried hazardous, toxic, and/or radioactive waste. DOE denied the allegations in the plaintiffs' motion. In a Joint Stipulation and Order (hereafter, ''Order''), which settled all claims in the plaintiffs'' Rule 60(b) motion, DOE agreed to conduct an assessment of ''* * * the reasonably foreseeable significant adverse environmental impacts of continuing to construct and of operating NIF at LLNL with respect to any potential or confirmed contamination in the area by hazardous, toxic, and/or radioactive materials'' and to present the results in an SEIS.

As agreed upon in the Order, DOE conducted characterization studies to determine the presence of any additional buried hazardous, toxic, and/or radioactive materials in the northeast corner of LLNL, where the NIF site is located. The progress of the characterization activities was documented to the court in the form of quarterly reports. The characterization activities are now complete and the results of these activities have been analyzed in the SEIS. The characterization studies did not detect the presence of any additional buried hazardous, toxic, and/or radioactive materials that would adversely impact human health and/or the environment.

Over the period of October 7–12, 1998, approximately one year after the Order, workers conducting routine drainage maintenance operations in the center of the East Traffic Circle (ETC) area uncovered debris. This location is outside the NIF construction area. Soil samples collected in the ETC area indicated that shallow soil in some locations contained residual PCB concentrations above the industrial cleanup level. These PCBs are believed to represent residual contamination from a 1984 landfill closure in the ETC area. In consultation with regulatory agencies, the surface soil was removed and sent to an EPA-approved hazardous waste disposal facility.

NEPA Process. On September 25, 1998, DOE issued a Notice of Intent (NOI) for preparation of the SEIS. On August 5, 1999, DOE issued an amended NOI for preparation of the SEIS to keep the public informed of the revised schedule for this SEIS. In October 1999, DOE published the Draft NIF SEIS, which evaluated the technical issues discussed in this ROD as they related to the evaluation of '' * * * the reasonably foreseeable significant adverse environmental impacts of continuing to construct and of operating NIF at LLNL, with respect to any potential or confirmed contamination in the area by hazardous, toxic and/or radioactive materials.''

The scope of the SEIS is based upon: (1) Any changes to the NIF proposed action not previously addressed in the SSM PEIS, including the requirements in the Joint Stipulation and Order, that are relevant to environmental concerns; and (2) any significant new circumstances or information relevant to environmental concerns and bearing on the NIF proposed action or its impacts, including the requirements in the Joint Stipulation and Order, that were not previously addressed in the SSM PEIS.

The public comment period for the Draft NIF SEIS began on November 5, 1999, and ended on December 20, 1999. During the comment period, public meetings were held in Washington, D.C., and Livermore, California. In addition, the public was encouraged to provide comments via mail, fax, Internet and telephone. Over 200 public comments were received. The Notice of Availability for the Final SEIS was published in the **Federal Register** on February 23, 2001 (66 FR 11568). Volume I of the Final SEIS contains changes made to the Draft SEIS in response to the public comment process, while Volume II, the Response to Public Comment, describes the public comment process, provides transcripts of the public meetings, presents comment summaries and responses, and provides copies of all comments received.

Purpose and Need. DOE's purpose and need for the NIF remains the same as that analyzed in the SSM PEIS. The NIF will provide a unique capability as a key component of DOE's science-based stewardship of the nation's nuclear weapons stockpile. Planned experiments with NIF at temperatures and pressures near those that occur in nuclear weapon detonations will provide data needed to verify certain aspects of sophisticated computer models. Those models are needed to simulate weapons physics, thereby providing insights on the reliability of the weapons stockpile. As a multipurpose inertial confinement fusion facility, the NIF will also be important to fusion energy research (*e.g.,* next critical step in scientific evaluation of inertial fusion energy as a future environmentally attractive energy source), basic science (*e.g.,* providing insight to the origin of the universe), and technology (*e.g.,* developing new technologies to aid U.S. industrial competitiveness in optics, lasers, and integrated circuit manufacturing).

As stated above, DOE prepared the SEIS to address (1) any changes to the NIF proposed action not previously addressed in the SSM PEIS that are relevant to environmental concerns, including the requirements in the Order; and (2) any significant new circumstances or information relevant to environmental concerns and bearing on the NIF proposed action or its impacts, that were not previously addressed in the SSM PEIS. Among the issues potentially contained in the former category, this SEIS evaluates the issues raised by the Conference Report accompanying the Energy and Water Development Appropriations Act for Fiscal Year 2001, regarding the potential for operating NIF at less than the planned 192 beams. The SEIS also evaluates whether the results of the characterization studies completed pursuant to the Order should affect the manner in which DOE proceeds with construction and operation of the NIF.

Proposed Action and Alternatives Considered. The SEIS examines alternatives related to continuing construction and eventual operation of NIF in light of the discovered PCB waste in the NIF construction area and residual PCB contamination in the ETC area. The SEIS also presents results of the characterization studies that DOE conducted and completed in 1998 and 1999 pursuant to the Joint Stipulation and Order.

The site characterization activities necessary to meet the requirements of the Order were carried out in two phases. Phase I required a review of all available reports, studies, maps, aerial photographs, and other available records, as well as interviews with workers and retirees who are reasonably known to have knowledge of the potential existence and location of buried materials containing the mentioned substances in any of seven specified areas around and including

the NIF construction site. Phase II consisted of the remainder of the required activities, as summarized here. The Order required identification of any areas where the materials in question may have been buried and required that appropriate geophysical surveys be carried out to further investigate such areas. Potential hazardous waste burial sites would then be investigated by, at a minimum, conducting soil boring and/or soil vapor surveys. Finally, the Order required the construction of one or more groundwater monitoring wells in the affected areas to monitor impacts from de-watering activities at the NIF construction site.

The Phase I and II investigations suggest that there is a low likelihood that significant quantities of additional previously unidentified buried hazardous, toxic, or radioactive objects remain in the stipulated areas. This conclusion is based on the results of the series of increasingly detailed inquiries conducted to identify and investigate suspect areas. This approach ensured wide coverage while providing convincing evidence of the absence of any further undocumented buried hazardous, toxic, or radioactive objects in likely areas. A comprehensive review was made of the current data, geophysical studies were conducted and site investigations, such as groundwater monitoring wells, soil boreholes and excavations, were performed. On the basis of the above findings, it was concluded that the only significant source of previously unknown or undiscovered buried hazardous, toxic, or radioactive waste existing in the northeastern quadrant at the time NIF construction began was the capacitor landfill discovered in September 1997. The elevated concentrations of residual PCBs discovered in soil in the ETC area in 1998 were from an already known past waste disposal site. Both the capacitor landfill area in the NIF construction area and the residual PCB contamination in the ETC area were cleaned up to action levels agreed upon by the CERCLA Remedial Project Managers (RPMs), thereby reducing the actual or potential contamination in these areas.

No Action Alternative—The Council on Environmental Quality (CEQ) regulations implementing NEPA require that an EIS consider a no action alternative (40 CFR 1502.14(d)). DOE has examined the no action alternative from two perspectives. The first reflects the stats quo, i.e., the ongoing activity of continuing to construct and operate NIF. The second no action alternative is to cancel the NIF project, at which time construction would cease and the site would be available for use for another purpose.

No Action: Continuing Activity to Construct and Eventually Operate NIF (DOE's Preferred Alternative)—DOE's current activities to construct and eventually to operate NIF, as proposed and analyzed in Appendix I of the SSM PEIS and decided in the SSM PEIS ROD dated December 26, 1996, represents the status quo. DOE believes that continuing ongoing activity is an appropriate no action alternative. CEQ has indicated that, in the case of ongoing activities, the no action alternative represents the status quo. (''[T]he 'no action' alternative may be thought of in terms of continuing with the present course of action until that action is changed'' [Forty Most Asked Questions Concerning CEQ's NEPA Regulations, Question 3, 46 FR 18026, 18027 (March 23, 1981)].) Under this alternative, DOE would make no changes in the design of NIF, would undertake no deviations in construction techniques, and would impose no operational changes in response to the information regarding site contamination obtained during the characterization studies completed pursuant to the Joint Stipulation and Order. The SEIS describes the consequences of continuing to construct and of operating NIF with respect to potential buried hazardous, toxic, or radioactive material in the Stipulated Areas. The SSM PEIS analyzed this alternative in detail with respect to all other aspects of construction and operation.

No Action: Ceasing Construction—Because no action could also be interpreted as ''no project at LLNL,'' DOE has determined that ceasing construction of NIF at LLNL is also an appropriate no action alternative. This alternative consists of several options described in the SEIS. This alternative was also discussed in the SSM PEIS as the no action alternative. DOE believes that ''no action'', when defined as ceasing construction of NIF, is not a reasonable alternative. This alternative would be reasonable to consider only if the characterization studies had determined that the contamination caused by buried hazardous, toxic, or radioactive materials was so extensive as to raise serious questions of the advisability of continuing the project in its current location. This is not the case, since no further contamination was found at levels or in extent great enough to require halting NIF construction to protect human health or the environment.

Options for No Action: Ceasing Construction

Placing the Facility in a Safe Condition—A decision to cease construction of NIF at LLNL could be followed by activities to place the facility in a condition that would permanently protect workers, the public, and the environment. The facility would then be left idle (''mothballed,'' as described in public comment).

Using the Facility for Another Program—The NIF facility would be completed to the extent that it could be used for another program. Depending on the intended alternative use of the facility, the level of construction activity might be less than or equal to that required for completion of NIF. The major difference would be that the NIF scientific equipment would not be installed.

Demolishing NIF—The completed structures of the facility would be demolished, excavations filled, and the site returned to a condition that would be appropriate for open space.

Action Alternatives (Eliminated from Detailed Study)—The CEQ regulations require that an EIS analyze all reasonable alternatives to the proposed action and discuss the reasons why other alternatives were eliminated from detailed study [40 CFR 1502.14(a)]. As discussed below, DOE believes that the facts surrounding the proposed action and purpose and need for the SEIS lead to the conclusion that there are no reasonable action alternatives under the circumstances, and, therefore, all action alternatives were eliminated from detailed study.

Change NIF Construction and Operation—Possible action alternatives would consist of various ways to modify the manner in which DOE continues to construct and operate the facility to take into account the results of the characterization studies. Changes in construction and operation of NIF might be reasonable to consider as alternatives only if the characterization studies concluded that there are additional buried hazardous, toxic, or radioactive materials or soils in the area of the NIF construction site that would adversely affect human health and the environment. Phase I and II evaluations of the NIF site pursuant to the Order have uncovered no positive indications of additional hazardous, toxic, and/or radioactive material. The hazardous materials discovered during NIF construction have already been cleaned up. Contamination at these locations is now below levels of concern for impacts to the environment or human health.

Characterization studies have shown that there is a very low likelihood of further existence of any buried wastes. Further NIF construction and NIF operations would result in no additional potential adverse health impacts to workers or the public from hazardous, toxic, and/or radiological materials related to buried wastes beyond those analyzed in the SSM PEIS. Therefore, no design, construction, or operation modifications to address the presence of such materials need be considered. Any contaminants within the area defined in the Joint Stipulation and Order, and outside the NIF construction site, will be addressed under the Comprehensive Environmental Response, Compensation, and Liability Act process with CERCLA RPM oversight.

Hypothetical Changes in NIF Operations Not Related to Buried Objects or Residual Site Contamination—Public comments received on the draft SEIS stated that certain changes related to NIF operations should be added to the scope of the NIF SEIS, including the following: use of plutonium, uranium, and lithium hydrides as targets for experiments; lower energy operations; reduced number of beam lines (*e.g.,* a half-sized NIF); consideration of potential damage to optics; and more frequent maintenance and cleaning of optics. DOE examined these operational changes and determined they were not appropriate topics for the NIF SEIS for the following reasons.

The process for determining whether DOE will supplement the SSM PEIS to address a proposal to use plutonium, uranium, or lithium hydrides as targets was established in the Memorandum Opinion and Order issued by the U.S. District Court for the District of Columbia on August 19, 1998, in NRDC v. Richardson. By the terms of that Memorandum Opinion and Order, DOE, no later than January 1, 2004, will either (1) determine that experiments using plutonium, uranium (other than depleted uranium), lithium hydride, and certain other materials will not be conducted in the NIF or (2) prepare a Supplemental SSM PEIS analyzing the reasonably foreseeable environmental impacts of such experiments. DOE will continue to investigate the need for these experiments and will make the required determination or begin the appropriate SEIS by the specified date. However, until DOE has completed the necessary studies and determined that such experiments are needed, there is no proposal for such experiments, and it would be inappropriate to begin a SEIS on a hypothetical proposal.

While lower energy operations and operation with a reduced number of beam lines may be considered, these potential changes are within the envelope of operations evaluated in the SSM PEIS and, for these reasons, are not evaluated in detail as a distinct alternative in the SEIS. Consistent with language in the Conference Report accompanying the Energy and Water Appropriations Act for Fiscal Year 2001, which directed DOE to examine these issues, the SEIS includes an analysis of lower energy operations and operation with a reduced number of beam lines, both in terms of the envelope of operations analyzed in the SSM PEIS and in absolute terms. The SSM PEIS evaluated operations of NIF in an enhanced mode with a maximum credible yield of 45 megajoules per shot, a maximum tritium inventory of 500 Ci, a tritium throughput of 1,750 Ci/yr, and tritium effluents of 30 Ci/yr. Operations with fewer beam lines and/or at less energy would result in less or no yield per shot, less tritium inventory, less tritium throughput, and less tritium effluents. Since the absolute impacts from the full NIF would be very low, as documented in the SSM PEIS, the SEIS concludes that any differences between such impacts of the reduced options would be inconsequential, irrespective of their relative magnitudes.

Public comment also requested that the SEIS address more frequent damage to optics, more frequent maintenance of optics, and more frequent cleaning of optics. DOE has examined this issue and concluded that the impacts to workers and the public from damage to the final optics in the beam lines has already been included in the impact analysis conducted as part of the SSM PEIS. The actual frequency with which optics components will have to be cleaned, adjusted, repaired, or replaced would not be determined until the facility is completed and tested.

The NIF laser facility includes 192 beam lines consisting of more than 10,000 discrete optical components. The NIF target area provides confinement of tritium and activation products by providing physical barriers and controlling air flow. The facility operates in a pulsed mode; maintenance and repair of the beamlines would not occur during a pulse. The SSM PEIS evaluated risks to workers and the public and generation of wastes for an enhanced mode with bounding yield. Normal operations are expected to be within those bounds, including variations in maintenance and repair of optics. For these reasons, DOE determined that this was not an appropriate issue or alternative for inclusion for detailed study in the SEIS.

Constructing NIF at Another Site—Constructing NIF at another site at this time is not a reasonable option from a technical perspective. The conventional construction of the NIF facility is now more than 95% complete. The NIF requires large-scale laser research, development, and support facilities that are present only at LLNL. In order to meet the purpose and need for NIF, the required scientific infrastructure and facilities that are now present at LLNL would have to be developed at another site.

Moving NIF to another site might be reasonable to consider only if the characterization studies identified additional major sources of further contamination from buried hazardous, toxic, or radioactive materials. No additional previously unknown or undiscovered sources of contaminated objects were found at the NIF construction area as a result of Phase I and Phase II characterization activities, and the impacts of cleanup were minor (below levels of concern for human health). The residual contamination found at the ETC area is at a location different from that of the NIF construction site and would not affect NIF construction or operation. Moving NIF to another site would not provide the public substantial additional protection from buried hazardous or radioactive materials. Any such materials found would be removed under any circumstances.

Abandonment of the NIF Facility—Although suggested in public comment on the draft SEIS, this option was considered but not evaluated in detail in the SEIS. DOE has determined that it is unreasonable to stop construction and abandon the site or facility without further modifications. The facility would not be protected in any way from degradation by the elements or from unwanted intrusion. Abandonment without placing the facility in a safe condition would violate DOE's principles of integrated safety management and good management practices. Abandonment could violate one or more federal regulations, state regulations, or DOE orders and guidelines. Abandonment would not enable DOE to meet the purpose and need for which the NIF is being constructed.

Summary of Environmental Impacts. The SEIS evaluates the impacts of the preferred alternative and describes the Phase I and Phase II characterization studies. The SEIS also evaluates the potential impacts (including cumulative impacts) to LLNL workers and to the

public from construction and operation of the NIF because of the possible presence of buried hazardous, toxic, or radioactive materials in the areas in the northeastern quadrant of the LLNL as stipulated in the Order.

Results of Phase I and Phase II investigations show that there is a low likelihood that significant quantities of buried hazardous, toxic, or radioactive materials remain in the stipulated areas. This conclusion is based on the results of the series of increasingly detailed inquiries conducted to identify and investigate suspected areas. This approach ensured wide coverage while providing convincing evidence of the absence of any further undocumented buried hazardous, toxic, or radioactive objects in likely areas. A comprehensive review was made of the current data from the existing 450 groundwater monitoring wells and extensive soil borings. A total of four magnetometer surveys, two electrical conductivity surveys and one ground penetrating radar survey was conducted. Six new groundwater monitoring wells were installed, 31 soil boreholes were drilled, and 11 test excavations were performed. The results of the Phase I and II investigations were presented in the SEIS.

On the basis of the above findings, DOE has concluded that the only significant source of previously unknown or undiscovered buried hazardous, toxic, or radioactive waste existing in the northeastern quadrant at the time NIF construction began was the capacitor landfill, discovered in September 1997. The elevated concentrations of residual PCBs discovered in soil in the ETC area in 1998 were from a known former waste disposal site. Both the capacitor landfill area at the NIF construction site and the residual PCB contamination in the ETC area were cleaned up to action levels agreed upon by the CERCLA RPMs, thereby reducing the actual or potential contamination in these areas.

DOE's analysis of soil and groundwater data, including data collected in support of the capacitor landfill removal and Phase I and II investigations, concluded that levels of contamination are well below those that would impact human health and the environment. Current and future levels of PCB contamination in groundwater are calculated to be well below levels considered to present a risk to the public. Construction and operation of NIF would not adversely affect groundwater because no groundwater withdrawals or discharges would occur from this facility. Ongoing remediation activities will continue to improve groundwater quality for both no action alternatives—(1) continuing construction and operation of NIF and (2) ceasing construction of NIF. Potential impacts on the human environment at LLNL are below any level of concern.

Environmentally Preferable Alternative. Environmental impacts were estimated to be small for both no action alternatives as the levels of contamination found at LLNL in the NIF site are well below those that would impact human health and the environment. The no action alternative of stopping NIF construction without relocation to another site would impair the ability of NNSA to meet the purpose and need for which NIF is being constructed, and is not considered a reasonable alternative. Nonetheless, a decision to cease construction of NIF at LLNL, if followed by activities to place the facility in a condition that would permanently protect workers, the public, and the environment, or to use the facility for another program with less environmental impacts than NIF operation, would be the environmentally preferable alternative, albeit an unreasonable alternative from NNSA's standpoint.

Comments on the Final SEIS. During the 30-day period following notice that the Final SEIS had been filed on February 23, 2001, the NNSA received no comments on the Final SEIS.

Other Considerations. Cost and technical considerations have been taken into account in the selection of the preferred alternative. NNSA reviewed the mission need for NIF in a ''30-Day Review,'' a review by the NIF Programs'' Target Physics Review Committee and a report focused upon the role of NIF in the Stockpile Stewardship Program. NIF is one of a set of essential capabilities that is needed to address the significant technical challenges associated with developing a science-based understanding of the nuclear stockpile. Given the continuing requirement for NIF, the cost considerations relate to continuing the construction at the existing site or starting the construction at a new site. Accordingly, completing the construction at LLNL offers a significant cost advantage.

Decision. NNSA has decided to continue the current activities to construct and eventually to operate NIF, as analyzed in Appendix I of the SSM PEIS and the SEIS. This decision was analyzed in the SEIS as the no action alternative of continuing to construct and eventually to operate NIF, which is NNSA's preferred alternative, and the only reasonable alternative analyzed in the SEIS. Under this action, NNSA would make no changes in the design of NIF, would undertake no deviations in construction techniques, and would impose no operational changes in response to the information regarding site contamination obtained during the characterization studies completed pursuant to the Joint Stipulation and Order.

NNSA prepared this Record of Decision pursuant to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500–1508) and the Department of Energy Regulations implementing NEPA (10 CFR part 1021). In making this ROD for the NIF SEIS, the Department considered the analysis in the NIF SEIS and the SSM PEIS, along with other factors such as the NNSA statutory mission requirements and national security policy.

Issued in Washington, D.C. this 30th day of March, 2001.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–8396 Filed 4–4–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–556–001, FERC Form 556]

Information Collection Submitted for Review and Request for Comments

March 30, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of January 24, 2001 (66 FR 7635). The Commission has noted this fact in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received on or before May 7, 2001.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail: mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information*: FERC Form 556 ''Congeneration and Small Power Production''.

2. *Sponsor*: Federal Energy Regulatory Commission.

3. *Control No.*: OMB No. 1902–0075. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. This is a mandatory information collection requirement.

4. *Necessity of Collection of Information*: Submission of the information is necessary to fulfill the requirements of section 3 of the Federal Power Act (FPA), and sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The reporting requirements associated with FERC Form 556 are codified at 18 CFR 131.80 and Part 292 of the Commission's regulations.

FERC Form 556 requires owners and/or operators of small power production or cogeneration facilities who seek qualifying status for their facilities, to file the information requested in Form 556 either as an application to the Commission for certification as a qualifying facility (QF) or to use Form 556 as a notice of self certification.

A primary objective of PURPA is conservation of energy through the efficient use of resources in the generation of electric power. One means of achieving this objective is to encourage electric power production by cogeneration facilities which make use of reject heat associated with commercial and industrial processes, and by small power production facilities which use waste and renewable resources as fuel. PURPA, through the establishment of various regulatory benefits, encourages the development of small power production facilities which meet certain technical and corporate criteria. PURPA benefits afforded QFs include exemption from certain corporate, accounting, reporting and rate regulation under the Public Utility Holding Company Act of 1935 (PUHCA), certain state laws, and in certain instances, regulation under the FPA. Additionally, other benefits afforded to QFs are in the form of requirements for electric utilities to: (1) Make avoided cost information and system capacity needs available to the public; (2) purchase energy and capacity from QFs at the utility's avoided cost of power (ie. the cost to the purchasing utility to generate the power itself or as the cost to purchase it from another source; (3) sell backup, maintenance and other power services to QFs at rates based on the cost of rendering the services; (4) provide certain interconnection and transmission services priced on a nondiscriminatory basis; and (5) operate in ''parallel'' with interconnected QFs so that they may be electronically synchronized with electric utility grids. The information submitted enables the Commission to carry out its responsibilities in implementing the statutory provisions of both the EPA and PURPA by determining whether a facility meets the necessary requirements and is entitled to various PURPA benefits.

Respondent Description: The respondent universe currently comprises on average, 100 entities subject to the Commission's jurisdiction.

6. *Estimated Burden:* 400 total burden hours, 100 respondents, 1 response annually, 4 hours per response (average).

7. *Estimated Cost Burden to Respondents*: 400 hours÷2,080 hours per year × $115,357 per year = $22,184 average cost per respondent $222.

Statutory Authority: Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 796 as amended and 16 U.S.C. 824a-3) and sections 3 of the Federal Power Act (16 U.S.C. 796).

David P. Boergers,

Secretary.

[FR Doc. 01–8377 Filed 4–4–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–53–000]

Kinder Morgan Interstate Gas Transmission, LLC; Notice of Informal Settlement Conference

March 30, 2001.

An informal settlement conference in the above docket will be held on Tuesday, April 10, 2001, to address the outstanding ad valorem tax issues on the Kinder Morgan Interstate Gas Transmission, LLC system. The conference will be held in the offices of Kinder Morgan, 370 Van Gordon Street, Lakewood, Colorado 80228. The informal settlement conference will begin at 10:30 a.m.

All interested parties in the above docket are requested to attend the informal settlement conference. If a party has any questions regarding the conference, please call Richard Miles, the Director of the Commission's Dispute Resolution Service. His telephone number is 1 877 FERC ADR (337–2237) or 202/208–0702 and his e-mail address is *richard.miles@ferc.fed.us.* If you plan on attending the conference, please contact Ben Breland at Kinder Morgan by fax at 303–763–3116.

David P. Boergers,

Secretary.

[FR Doc. 01–8381 Filed 4–4–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2031–046]

Springville City, UT; Notice of Public Scoping for the Environmental Assessment Evaluating Issuance of a New License for the Bartholomew Hydroelectric Project in Utah County, UT

March 30, 2001.

Pursuant to the National Environmental Policy Act and procedures of the Federal Regulatory Commission, the Commission staff intends to prepare an Environmental Assessment (EA) that evaluates the environmental impacts of issuing a new license for the constructed and operating Bartholomew Project, No. 2031–046, located within Bartholomew Canyon and on Hobble Creek, in Utah County, Utah. The subject project is

partially situated on federal lands within the Uinta National Forest.

The EA will consider both site-specific and cumulative environmental effects, if any, of the proposed relicensing and reasonable alternatives, and will include an economic, financial, and engineering analysis. Preparation of staff's EA will be supported by a scoping process to ensure identification and analysis of all pertinent issues.

At this time, the Commission staff does not anticipate holding any public or agency scoping meetings nor conducting a site visit. Rather, the Commission staff will issue one Scoping Document: (1) Outlining staff's preliminary evaluation of subject areas to be addressed in the EA; and (2) requesting concerned resource agencies, Native American tribes, non-governmental organizations, and individuals to provide staff with information on project area environmental resource issues that need to be evaluated in the EA.

The aforementioned scoping document will be provided to all entities and persons listed on the Commission's mailing list for the subject project. Those not on the mailing list for the Bartholomew Hydroelectric Project may request a copy of the scoping document from Jim Haimes, the project's Environmental Coordinator, at (202) 219–2780 or by contacting him by E-mail at *james.haimes@ferc.fed.us.*

David P. Boergers,

Secretary.

[FR Doc. 01–8378 Filed 4–4–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

March 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11887–000.

c. *Date Filed:* February 12, 2001.

d. *Applicant:* Edward T. Navickis.

e. *Name of Project:* Parshall Canal Power Project.

f. *Location:* On the North Fork of the American River, near the town of Truckee in Placer County, California. The Parshall Canal is an existing canal that transports irrigation and hydroelectric water. The canal is owned by Pacific Gas & Electric Company.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Edward Navickis, P.O. Box 910, Penn Valley, CA 95946, (530) 432–9226.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. Deadline for filing motions to intervene, protests and comments: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments recommendation interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency.

k. *Description of Project:* The proposed project would consist of: (1) a new powerhouse containing one generating unit with an installed capacity of 1,050 kW; (2) approximately 800 feet of new three phase power line that would tie into an existing 12 kva single phase line approximately 1,600 feet in length (The single phase line would be upgraded to three phase); and (3) appurtenant facilities.

The project would have an annual generation of 4 million kilowatt-hours that would be sold to Pacific Gas & Electric.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTESTS'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–8379 Filed 4–4–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

March 30, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11896–000.

c. *Date Filed:* February 27, 2001.

d. *Applicant:* Edward T. Navickis.

e. *Name of Project:* East Park Dam Power Project.

f. *Location:* On the East Park Reservoir, part of the Stoney Creek Watershed, near the town of Stonyford in Colusa County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Edward T. Navickis, P.O. Box 910, Penn Valley, CA 95946, (530) 432–9226.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for Filing Motions to Intervene, Protests and Comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A 100 foot extension of the existing diameter outlet pipe; (2) a new 600 square foot powerhouse at the edge of the existing plunge pool, containing one generating unit with an installed capacity of 1,325 kW; (3) a reservoir with a storage capacity of 50,900 acre-feet; (4) approximately 2 miles of third power wire line upgrades and approximately 2 miles of new three phase power line tying into PG&E's existing distribution system; (5) a powerline easement approximately one mile-long x 20 feet-wide; (6) a road easement approximately one-mile long x 30-feet-wide; (7) approximately 40,000 square feet of land at the base of the dam for a powerhouse; and (8) appurtenant facilities.

The project would have an annual generation of 4 million kilowatt-hours that would be sold to either Pacific Gas & Electric, an independent power distributor, or the California PX.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, locate at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide

whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–8380 Filed 4–4–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request for Extension of Time To Commence and Complete Project Construction and Soliciting Comments, Motions To Intervene, and Protests

March 30, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time to Commence and Complete Project Construction.

b. *Project No.:* 10648–007.

c. *Location:* The proposed project would be located on the Hudson River, in Saratoga and Rensselear Counties, New York. The project does not utilize federal or tribal lands.

d. *Date Filed:* March 9, 2001.

e. *Applicant:* Adirondack Hydro Development Corporation.

f. *Name of Project:* Waterford Hydroelectric Project.

g. *Pursuant to:* Public Law 104–242.

h. *Applicant Contact:* Keith F. Corneau, Director, Corporate Development, Adirondack Hydro Development Corporation, 39 Hudson Falls Road, South Glens Falls, NY 12803, (518) 747–0930.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us

j. *Deadline for filing comments and or motions:* May 4, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/ doorbell.htm.*

Please include the project numbers (10648–007) on any comments or motions filed.

k. *Description of the Request:* The licensee has requested that the Commission grant its request for an additional two-year period to commence construction of the Waterford Hydroelectric Project. The deadline to commence project construction for FERC Project No. 10648 would be extended to June 9, 2003. The deadline for completion of construction would be extended to June 9, 2005.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.215. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–8382 Filed 4–4–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6957–5]

Clean Water Act Section 303(d): Final Agency Action on 19 Total Maximum Daily Loads (TMDLs) and Final Agency Action on 54 Determinations That TMDLs Are Not Needed

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the final agency action on 19 TMDLs prepared by EPA Region 6 for waters listed in Louisiana's Mermentau and Vermilion/Teche river basins, under section 303(d) of the Clean Water Act (CWA). This notice also announces the final agency action removing 54 waterbody/pollutant combinations from the Louisiana 303(d) list because TMDLs are not needed. EPA evaluated these waters and prepared the 19 TMDLs needed in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007. Documents from the administrative record files for the 54 determinations that TMDLs are not needed and the final 19 TMDLs, TMDL calculations and responses to comments may be viewed at *http://www.epa.gov/region6/water/tmdl.htm.* The administrative record files may be obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Clifford et al.,* No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court's order may be found at 65 FR 54032 (September 6, 2000).

EPA Takes Final Agency Action on 19 TMDLs

By this notice EPA is taking a final agency action on the following 19 TMDLs for waters located within the Mermentau and Vermilion/Teche basins:

Subsegment	Waterbody name	Pollutant
050201	Bayou Plaquemine Brule	Mercury.
050101	Bayou Des Canes	Mercury.
050702	Seventh Ward Canal (Intracoastal Waterway)	Mercury.
060203	Chicot Lake	Mercury.
050901	Coastal Waters of the Gulf of Mexico (Mermentau River Basin Coastal)	Mercury.
061201	Coastal Waters of the Gulf of Mexico (Vermilion-Teche RB–CB & G)	Mercury.
050101	Bayou Des Cannes	Fecal Coliform.
050201	Bayou Plaquemine Brule	Fecal Coliform.
050301	Bayou Nezpique	Fecal Coliform.
050501	Bayou Queue de Tortue	Turbidity.
060208	Bayou Boeuf	Fecal Coliform.
060301	Bayou Teche	Fecal Coliform.
060401	Bayou Teche	Fecal Coliform.
060801	Vermilion River	Fecal Coliform, Dissolved Oxygen, Nitrogen.
060802	Vermilion River	Fecal Coliform, Dissolved Oxygen, Nitrogen.

EPA requested the public to provide EPA with any significant data or information that may impact the 19 TMDLs in 65 FR 19762 (April 12, 2000). The comments received and EPA's response to comments may be found at *http://www.epa.gov/region6/water/tmdl.htm.*

FINAL AGENCY ACTION REMOVING 54 WATERBODY/POLLUTANT COMBINATIONS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY

Waterbody	Waterbody description	Suspected pollutant	Reason for delisting
050101	Bayou Des Cannes—Headwaters to Mermentau.	Turbidity	Assessment of new data and information shows it Is meeting Water Quality Standards (WQS).
050102	Bayou Joe Marcel	Turbidity	Assessment of new data and information show it is meeting WQS.
050103	Bayou Mallet	Turbidity	Assessment of new data and information show it is meeting WQS.
050201	Bayou Plaquemine Brule Headwaters to Bayou Des Cannes.	Chlorides, Sulfates	Assessment of new data and information show it is meeting WQS.
050301	Bayou Nezpique—Headwaters to Mermentau River.	Turbidity	Assessment of new data and information show it is meeting WQS.
050401	Mermentau River—Origin To Lake Arthur.	Turbidity	Assessment of new data and information show it is meeting WQS.
050402	Lake Arthur and Lower Mermentau	Turbidity	Assessment of new data and information shows it is meeting WQS.

FINAL AGENCY ACTION REMOVING 54 WATERBODY/POLLUTANT COMBINATIONS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY—Continued

Waterbody	Waterbody description	Suspected pollutant	Reason for delisting
050501	Bayou Que de Tortue—Headwaters to Mermentau River.	Chlorides, Sulfates, Phosphorus.	Assessment of new data and information shows it is it meeting WQS.
050602	Intracoastal Waterway	Turbidity	Assessment of new data and information shows it is meeting WQS.
050701	Grand Lake	Turbidity	Assessment of new data and information shows it is meeting WQS.
050702	Intracoastal Waterway	Turbidity	Assessment of new data and information shows it is meeting WQS.
050703	White Lake	Sulfates	Assessment of new data and information shows it is meeting WQS.
050901	Bays and Gulf Waters to State 3-mile Limit.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060202	Bayou Cocodrie	Turbidity	Assessment of new data and information shows it is meeting WQS.
060203	Chicot Lake	Turbidity	Assessment of new data and information shows it is meeting WQS.
060204	Bayou Courtableau—Origin to West Atchafalaya Borrow Pit Canal.	Chlorides Turbidity	Assessment of new data and information shows it is meeting WQS.
060205	Bayou Teche—Headwaters at Bayou Courtableau to I–10.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060207	Bayou des Glaises Diversion Channel.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060208	Bayou Boeuf—Headwaters to Bayou Courtableau.	Chlorides, Sulfates, Turbidity.	Assessment of new data and information shows it is meeting WQS.
060209	Irish Ditch/Big Bayou—Unnamed Ditch to Irish Ditch.	Salinity/TDS, Chlorides, Sulfates.	Assessment of new data and information shows it is meeting WQS.
060210	Bayou Carron	Turbidity	Assessment of new data and information shows it is meeting WQS.
060211	West Atchafalaya Borrow Pit Canal	Chlorides Turbidity	Assessment of new data and information shows it is meeting WQS.
060212	Chatlin Lake Canal and Bayou DuLac.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060401	Bayou Teche—Keystone Locks and Dam to Charenton Canal.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060501	Bayou Teche—Charenton Canal to Wax Lake Outlet.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060601	Charenton Canal	Turbidity	Assessment of new data and information shows it is meeting WQS.
060701	Tete Bayou	Turbidity	Assessment of new data and information shows it is meeting WQS.
060702	Lake Fausse Point and Dauterive Lake.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060703	Bayou du Portage	Turbidity	Assessment of new data and information shows it is meeting WQS.
060801	Vermilion River—Head-waters at Bayou Fusilier-Bourbeaux Junction to New Flanders (Ambassador Caffery Bridge at Hwy 3073).	Chlorides, Salinity/TDS, Turbidity.	Assessment of new data and information shows it is meeting WQS.
060802	Vermilion River—From New Flanders (Ambassador Caffery Bridge at Hwy 3073) To Intracoastal Waterway.	Salinity/TDS, Chlorides, Temp., Turbidity.	Assessment of new data and information shows it is meeting WQS.
060803	Vermilion River Cutoff	Turbidity	Assessment of new data and information shows it is meeting WQS.
060804	Intracoastal Waterway	Turbidity	Assessment of new data and information shows it is meeting WQS.
060901	Bayou Petite Anse	Turbidity	Assessment of new data and information shows it is meeting WQS.
060902	Bayou Carlin (Delcambre Canal)—Lake Peigneur to Bayou Petite Anse (Estuarine).	Turbidity	Assessment of new data and information shows it is meeting WQS.
060903	Bayou Tigre	Turbidity	Assessment of new data and information shows it is meeting WQS.
060904	Vermilion River B890 Basin New Iberia Southern Drainage Canal.	Turbidity	Assessment of new data and information shows it is meeting WQS.
060906	Intracoastal Waterway	Turbidity	Assessment of new data and information shows it is meeting WQS.
060909	Lake Peigneur	Turbidity	Assessment of new data and information shows it is meeting WQS.

FINAL AGENCY ACTION REMOVING 54 WATERBODY/POLLUTANT COMBINATIONS FROM THE LOUISIANA 303(D) LIST BECAUSE TMDLS ARE NOT NECESSARY—Continued

Waterbody	Waterbody description	Suspected pollutant	Reason for delisting
061102	Intracoastal Waterway	Turbidity	Assessment of new data and information shows it is meeting WQS.

EPA requested the public to provide to EPA any significant data or information that may impact the determination that 54 TMDLs are not necessary in 65 FR 79100 (December 18, 2000). No comments were received.

Dated: March 1, 2001.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–8277 Filed 4–4–01; 8:45 am]

BILLING CODE 6560–50–U

EXPORT-IMPORT BANK

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Pub. L. 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

Time and Place: Wednesday, April 18, 2001, at 9:30 a.m. to 12:30 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

Agenda: This meeting will focus on issues pertaining to the export of goods and services to particular sectors in sub-Saharan Africa including small business, capital goods and the transportation sector and to Export-Import Bank support of such exports.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to April 9, 2001, Teri Stumpf, Room 1215, Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: Teri Stumpf, Room 1215, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3502.

John M. Niehuss,

General Counsel.

[FR Doc. 01–8401 Filed 4–4–01; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 28, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 4, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0787.

Title: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning unauthorized Changes of Consumers Long Distance Carriers.

Form No.: FCC Form 478.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 28,414.

Estimated Time Per Response: 4.7 hours (avg.); 2–10 hours per response.

Total Annual Burden: 135,126 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Semi-Annually; Recordkeeping; Third party disclosures.

Needs and Uses: The goal of 47 U.S.C. 258 is to eliminate the practice of ''slamming'' which is the unauthorized change of a subscriber's preferred carrier. The modifications and additions adopted in the Third Report and Order, as modified in a subsequent Order, will improve the carrier change process for consumers and carriers alike, while making it more difficult for unscrupulous carriers to perpetrate slams. The Commission, among other things, amended the current carrier change authorization and verification rules to expressly permit the use of Internet letters of agency in a manner consistent with the new E-Sign Act; and, requires each telephone exchange and/or telephone toll provider to submit a semi-annual report on the number of slamming complaints it receives.

OMB Approval No.: 3060–0211.

Title: Section 73.1943 Political File.

Form No.: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 16,597.

Estimated Hours Per Response: 0.25 hours per request (each station is estimated to have 25 political broadcasts per year).

Frequency of Response: On occasion.

Cost to Respondents: $0.

Estimated Total Annual Burden: 104,744.

Needs and Uses: Section 73.1943 requires licensees of broadcast stations to keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such request. The data is used by the public to assess money expended and time allotted to a political candidate and to ensure that equal access was afforded to other qualified candidates.

OMB Approval No.: 3060–0502.

Title: Section 73.1942 Candidate rates.

Form No.: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 11,878.

Estimated Hours Per Response: 0.5 hours per disclosure of lowest unit charge; 20 hours for calculation of lowest unit charge; 2 hours for review of records.

Frequency of Response: On occasion.

Cost to Respondents: $0.

Estimated Total Annual Burden: 671,107 hours.

Needs and Uses: Section 315(b) of the Communications Act directs broadcast stations to charge political candidates the ''lowest unit charge of the station'' for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election.

Section 73.1942 requires broadcast licensees to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time (immediately preemptible, preemptible with notice, fixed, fire sale, and make good). Section 73.1942 also requires licensees to calculate the lowest unit charge. Stations are also required to review their advertising records throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits.

The disclosures would assure candidates that they are receiving the same lowest unit charge as other advertisers.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

[FR Doc. 01–8314 Filed 4–4–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 27, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 7, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0692.

Title: Home Wiring Provisions.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit.

Number of Respondents: 30,500 respondents; 253,510 responses.

Estimated Time Per Response: .50–5 hours.

Frequency of Response: Recordkeeping requirement, on occasion and annual reporting requirements.

Total Annual Burden: 46,114 hours.

Total Annual Cost: $38,000.

Needs and Uses: This rulemaking clarified rules concerning the disposition of cable home wiring upon the voluntary termination of service. During the initial phone call in which a subscriber voluntarily terminates cable service, if the operator owns and intends to remove the home wiring it must inform the subscriber: (1) That the cable operator owns the home wiring; (2) that it intends to remove the wiring; (3) that the subscriber has the right to purchase the wiring; and (4) what the per-foot replacement cost and total charge for the wiring would be. The information is used to promote competition and consumer choice by minimizing potential disruption of service to a subscriber switching video providers.

OMB Control No.: 3060–0281.

Title: Section 90.651, Supplemental Reports Required of Licensees Authorized under this Subpart.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 16,408.

Estimated Time Per Response: .166 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,724 hours.

Total Annual Cost: N/A.

Needs and Uses: This rule section revised the timeframe for reporting the number of mobile units placed in operation from eight months to 12 months. The radio facilities addressed in this subpart of the rules are allocated on and governed by regulations designed to award facilities on a need basis determined by the number of mobile units served by each base station. This is necessary to avoid

frequency hoarding by applicants. The various subparagraphs of this rule apply to different categories of licensees and define exactly what reports are required of each category. The Commission uses the information to maintain an accurate database of frequency users.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–8316 Filed 4–4–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 28, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0439

Expiration Date: 03/31/2004

Title: Regulations Concerning Indecent Communications by Telephone, 47 CFR Section 64.201.

Form No.: N/A.

Respondents: Business or other for-profit; Individuals or household.

Estimated Annual Burden: 10,200 respondents; .166 hours per response (avg.); 1,632 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: Section 223 of the Communications Act of 1934, as amended imposes fines and penalties on those who knowingly use the telephone to make obscene or indecent communications for commercial purposes. The fines and penalties are applicable to those who use the telephone or permit their telephone to be used, for obscene communications to any person and to those who use the telephone, or permit their telephone to be used, for obscene communications to any person and to those who use the telephone for indecent communications to persons under 18 years of age or to adults without their consent. Section 223 requires telephone companies, to the extent technically feasible, to prohibit access to indecent communications from the telephone of a subscriber who has not previously requested access. 47 CFR Section 64.201 implements the Section 223. Section 64.201 requires that certain common carriers block access to indecent messages unless the subscribe seeks access from the common carrier in writing; requires that adult message service providers notify their carriers of the nature of their programming; and requires providers of adult message services request that their carriers identify it as such in bills to their subscribers. The information requirements are imposed on carriers, adult message service providers and those who solicit their services to ensure that minors are denied access to material deemed indecent. If the requirements were not imposed the Commission would not be able to carry out its responsibilities as mandated in Section 223 of the Act. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0810.

Expiration Date: 03/31/2004.

Title: Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 120 respondents; 51.6 hours per response (avg.); 6200 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third party disclosure.

Description: The Communications Act of 1934, as amended, mandates that only eligible telecommunications carriers may receive universal service support. Under the Act, state commissions must designate telecommunications carriers subject to their jurisdiction as eligible. Section 214(e)(6), however, requires that the Commission, upon request, designate a common carrier that meet the requirements of section 214 as an eligible telecommunications carrier for a service area designated by the Commission. The Commission must evaluate whether telecommunications carriers requesting such designation pursuant to the Commission's procedures meet the eligibility criteria set forth in the Act. Carriers seeking designation from the Commission pursuant to section 214(e)(6) must demonstrate that they fulfill the requirements of section 214(e)(1). To do so, carriers seeking designation from the Commission must provide a petition containing the information specified in the Commission's Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act and the Order issued in CC Docket No. 96–45 (FCC 00–208). In addition, carriers seeking designation for service provided on non-tribal lands must provide an affirmative statement from a court of competent jurisdiction or the state commission that the state lacks jurisdiction over the carrier. The Commission will use the information collected to determine whether the telecommunications carriers providing the data are eligible to receive universal service support. Obligation to respond: Mandatory.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–8315 Filed 4–4–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

Re-establishment of the National Urban Search and Rescue Advisory Committee

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the Director of FEMA gives notice of re-establishment of the National Urban Search and Rescue Advisory Committee for a period of two years. Re-establishment of the Committee is a matter of the public interest in connection with the performance of the duties imposed on the Agency by law, to provide advice and recommendations on the continuing development and maintenance of the National Urban Search and Rescue Response System and the Agency's Urban Search and Rescue Program.

SUPPLEMENTARY INFORMATION: The objective of the Advisory Committee is

to provide advice, recommendations, and counsel on the continuing development and maintenance of a National Urban Search and Rescue Response System to the Director of FEMA. Principal functions of the Advisory Committee include:

a. Providing guidance to FEMA on the continuing development and implementation of a National Urban Search and Rescue capability;

b. Recommending priorities and appropriate funding levels for Urban Search and Rescue capability development and maintenance;

c. Overseeing the existing working group structure and recommending new working groups, as necessary;

d. Providing guidance and recommendations to FEMA regarding the concerns and priorities of the organizations which the members of the Advisory Committee represent; and,

e. Addressing legislative and State/local political matters that affect the National Urban Search and Rescue Response System.

The Advisory Committee will be comprised of up to 10 members, including the Designated Federal Officer for the Committee, or his or her designee, who will serve as the Chair. Members are appointed for 2-year terms, subject to renewal, and will serve at the discretion of the Designated Federal Officer. Members are selected to ensure a balanced representation of interests. Appointments to the Advisory Committee are reserved for representatives of the organizations that are most involved with the National Urban Search and Rescue Response System, to include Task Forces, State emergency management organizations, and fire service management and labor organizations.

The Advisory Committee shall also operate ad hoc committees and standing Functional Working Groups, as necessary to meet its responsibilities. They shall be accomplished through an Operations Group, that consists of a representative of the Task Force Leaders, three Task Force Leaders representing the three geographic divisions established within the United States, and the chairs of all Functional Working Groups. The Operations Group will report to the Chair of the Advisory Committee. Members of the Functional Working Groups are recommended based on professional expertise in fields such as search, rescue medicine, technology, logistics, communications and information technology, training, law, and structural engineering and emergency management. Federal employees may be considered for membership on the Advisory Committee or Functional Working Groups, if they possess unique expertise that will augment effective operation of the Committee or Working Group.

Comments: Comments on the re-establishment of the National Urban Search and Rescue Advisory Committee should be submitted on or before April 20, 2001.

ADDRESSES: Comment on re-establishment of the Advisory Committee are invited and should be addressed to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Room 840, Washington, DC 20472 or via e-mail at rules@fema.gov.

FOR FURTHER INFORMATION CONTACT: Mark Russo, Program Specialist, Emergency Services Branch, Operations and Planning Division, Response and Recovery Directorate, Federal Emergency Management Agency at (202) 646–3131 or via e-mail at mark.russo@fema.gov.

Dated: April 2, 2001.

Reginald Trujillo,

Director, Program Services Division.

[FR Doc. 01–8413 Filed 4–4–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 26, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. JBS, Inc., (formerly known as Jans Bancshares, Inc.), Kulm, North Dakota; to merge with Edgeley Bancorporation, Inc., Edgeley, North Dakota, and thereby indirectly acquire Security State Bank of Edgeley, Edgeley, North Dakota.

Board of Governors of the Federal Reserve System, March 30, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–8390 Filed 4–4–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than April 16, 2001.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Fifth Third Bancorp and Fifth Third Financial, both of Cincinnati, Ohio; to acquire USB, Inc., Milwaukee, Wisconsin, and thereby indirectly acquire Universal Bank, F.A., Milwaukee, Wisconsin, and thereby in engage in permissible savings association activities, pursuant to § 225.28(b)(4)(ii) of Regulation Y; USB Payroll Processing, Inc., Milwaukee, Wisconsin; USB Payment Processing, Inc., Milwaukee, Wisconsin; Electronic Processing, Inc., Milwaukee, Wisconsin; and Wellstreet Finance Ltd., Milwaukee, Wisconsin, and thereby engage in permissible data processing activities, pursuant to § 225.28(b)(14)(i)(A) of Regulation Y. Comment regarding this application must be received not later than April 26, 2001.

B. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. First Union Corporation, Charlotte, North Carolina, to acquire through NYCE Corporation, Woodcliff, New Jersey, voting interests in SecureAccess Company, LLC, a Delaware limited liability company that will implement a secure Internet payment and authentication system and its related product applications, and distribute such systems and applications worldwide. NYCE proposes to directly engage in SAC-related activities, including the marketing and sale of the secure Internet payment and authentication system, and its related product applications. Notificant also will engage in data processing and related services to facilitate transactions among consumers or between consumers and commercial entities using various media such as the Internet, hand-held wireless devices, telephone systems and other account access means made available by participating financial institutions, pursuant to § 225.28(b)(14) of Regulation Y.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. McIntosh County Bank Holding Company, Inc., Ashley, North Dakota; to engage *de novo* in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, March 30, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–8389 Filed 4–4–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–19–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

X-ray Examination Program—Extension—OMB No. 0920–0020 National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The X-ray Examination Program is a federally mandated program under the Federal Mine Safety and Health Act of 1977, PL–95–164. The Act provides the regulatory guidance for the administration of the National Coal Workers' X-ray Surveillance Program, a surveillance program to protect the health and safety of underground coal miners. This program requires the gathering of information from coal mine operators, participating miners, participating x-ray facilities, and participating physicians. The Appalachian Laboratory for Occupational Safety and Health (ALOSH), National Institute for Occupational Safety and Health (NIOSH) is charged with administration of this program. Total annual burden hours for this collection is 4,791.

Respondents	Number of respondents	Number of responses/ respondent	Avg. burden/ response in hours
Physicians/interpretation	20,000	1	3/60
Physician/certification	350	1	10/60
Miners	10,000	1	20/60
Mine operators	500	1	30/60
Facilities	300	1	30/60

Dated: March 30, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–8387 Filed 4–4–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control and Prevention

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Study Protocol Peer Review Meeting: Measuring Improved Metrics of EMF (Electric and Magnetic Fields) Exposure with Electric Utility Workers.

Time and Date: 9 a.m.–4 p.m., May 4, 2001.

Place: NIOSH, Robert Taft Laboratory, Auditorium, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Open to the public, limited by the space available. The meeting room accommodates approximately 75 people.

Purpose: The purpose of this meeting is to provide an opportunity for individual input regarding scientific and technical aspects of a joint study by NIOSH and the Electric Power Research Institute (EPRI) on

''Measuring Improved Metrics of EMF Exposure in an Electric Utility''. The study's goal is to test the feasibility of combining measurements of these new EMF exposure metrics with existing epidemiologic data to produce a more valid assessment of EMF health risks. Designated reviewers will individually critique the study protocol and provide comments on the conduct of the study and its prospects for achieving its goals. Others will be given an opportunity to provide individual comments.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information and a Copy of the Protocol: Joseph Bowman, Non-ionizing Radiation Section, Engineering and Physical Hazards Branch, Division of Applied Research and Technology, NIOSH, CDC, 4676 Columbia Parkway, M/S C–27, Cincinnati, Ohio 45226, telephone 513/533–8143.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 30, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–8386 Filed 4–4–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Grant to Welfare Information Network

AGENCY: Office of Family Assistance, ACF, DHHS.

ACTION: Grant award announcement.

SUMMARY: Notice is hereby given that an award is being made to the Welfare Information Network of Washington, DC in the amount of $75,000 for information dissemination activities on welfare reform. After the appropriate reviews, it has been determined that this proposal qualifies as a sole source award. Over the past five years, the Welfare Information Network (WIN) has been one of the leading nonprofit organizations in disseminating information and materials on welfare reform. The WIN network is a very unique organization in the welfare reform community. It has created a database on the cutting edge of Welfare to Work promising strategies through a synthesis of the latest research, site visits, and surveys of practitioners and service providers. The WIN organization has been an extremely valuable partner with the Office of Family Assistance in several clearinghouse and networking activities. This partnership with the WIN Organization has proven to be invaluable to States and communities in obtaining the information, policy analysis, and technical assistance they need to develop and implement changes that have helped to reduce dependency and promote the well-being of children and families. The period of this funding will extend through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Maiers, Office of Family Assistance, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC 20447, Telephone: 202–401–5438.

Dated: March 30, 2001.

Samara Weinstein,

Deputy Director, Office of Family Assistance.

[FR Doc. 01–8423 Filed 4–4–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0472]

Agency Information Collection Activities; Announcement of OMB Approval; Petition for Administrative Stay of Action

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Petition for Administrative Stay of Action'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 2001 (66 FR 1144), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0194. The approval expires on March 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: March 29, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–8306 Filed 4–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1666]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Abbreviated New Drug Application Regulations; Patent and Exclusivity Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments on the collection of information by May 7, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Abbreviated New Drug Application Regulations; Patent and Exclusivity Provisions (OMB Control No. 0910–0305—Extension

Section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) requires patent owners to submit to FDA information about patents that cover approved drugs. Generic copies of

these drugs may be approved when the patents expire is a generic company certifies that the patent is invalid or will not be infringed. In such cases, the generic company must notify the patent owner about the certification, and approval of the drug may not be made effective until after the court decides the patent infringement suit or a period of 36 months, whichever occurs first. In addition, section 505 of the act provides several periods of marketing exclusivity ranging from 3 to 10 years (depending primarily on the nature of the innovation). If a drug product receives marketing exclusivity, FDA will not approve (or, in limited cases not receive) an abbreviated new drug application (ANDA) for the drug product.

Under the authority found in sections 505 and 701 of the act (21 U.S.C. 371), FDA issued regulations governing patent and exclusivity provisions in part 314 (21 CFR part 314). The regulations provide instructions for new drug applications (NDA) applications (including section 505(b)(2) of the act applicants) and ANDA applicants on how to file patent information and request marketing exclusivity; require patent certification information for section 505(b)(2) applications and ANDA's; require information for requests for marketing exclusivity for NDA's (including section 505(b)(2) applications and certain NDA supplements); and require patent information for NDA's.

The specific reporting requirements that are the subject of this information collection are as follows:

- § 314.50(i)—Requires the submission of patent certification information
- § 314.50(j)—Requires the submission of marketing exclusivity information
- § 314.5—Requires notice of certification of invalidity or noninfringement of a patent
- § 314.53—Requires the submission of patent information.
- § 314.54(a)—Requires the submission of marketing exclusivity information.
- § 314.70(e)—Requires the submission of patent information
- § 314.70(f)—Requires the submission of marketing exclusivity information
- § 314.94(a)(12)—Requires the submission of patent certification information
- § 314.95—Requires notice of certification of invalidity or noninfringement of a patent.
- § 314.107(c)(4), (e)(2)(iv), and (f)—Requires notice of the date of commercial marketing; a copy of the entry (c)(4), (e)(2)(iv), of the order or judgment; notice of the filing of legal action after notice of certification.

Applicants must provide information on patents to FDA to enable the agency to determine whether a product is covered by a patent or whether approval of a proposed drug product would result in patent infringement. The agency lists the patent information as a reference of potential applicants. If an applicant believes a patent is invalid or would not be infringed, Federal law also requires it to notify the patent holder. FDA approval, in such cases, is affected should there be any patent litigation. Failure to provide this information would result in an incomplete application and constitute grounds for refusing to approve the application.

Applicants submitting NDA's are required under the act to provide information on certain patents that cover their drug products. The agency lists this patent information in its publication entitled List of Approved Drug Products With Therapeutic Equivalence Evaluations, which is available on the Internet at www.fda.gov/Cder/OB.

To promote product innovation, the act also gives NDA applicants several periods of ''market exclusivity'' ranging from 3 to 10 years (depending primarily on the nature of the innovation). If a drug product receives marketing exclusivity, FDA will not approve (or, in limited cases, even receive) an ANDA for the drug product during that time period.

In the **Federal Register** of January 3, 2001 (66 FR 372), the agency requested comments on the proposed collections of information. No significant comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	No. of respondent per response	Annual frequency per response	Total annual rsponses	Hours per response	Total hours
Patent Information. 314.50(h). 314.53. 314.70(e)	85	3.8	325	2	650
Patent Certification Information. 314.50(i). 314.94(a)(12)	97	3.4	331	2	662
Notice of Certification of Invalidity or Noninfringement of a Patent. 314.52. 314.95	37	2	75	16	1,200
Marketing Exclusivity Information 314.50(j). 314.54(a)(1)(vii). 314.70(f)	92	2.7	250	2	500
Notification of Date of Commercial Marketing; Entry of the Order or Judgement; Filing of Legal Action. 314.107(c)(4), (e)(2)(iv), (f)(2), and (f)(3)	34	2	71	1	71

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 29, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–8307 Filed 4–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10021]

Notice; Correction

ACTION: Notice; correction.

SUMMARY: In the **Federal Register** issue of Monday, March 26, 2001, make the following correction:

Correction: In the **Federal Register** issue of Monday, March 26, 2001, Volume 66: FR Doc. 01–7327, on page 16480,''Responses: 12,600'' in the 16th line of the first full paragraph in column 2 should read ''Responses: 12,600,000.''

Dated: March 28, 2001.

Julie Boughn,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–8404 Filed 4–4–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–297]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Existing collection in use without an OMB control number.

Title of Information Collection: Request for Employment Information.

Form No.: HCFA–R–297 (OMB# 0938–0787).

Use: This form is needed to determine whether a beneficiary can enroll in Part B Medicare and/or qualify for premium reduction. This form is used by the Social Security Administration to obtain information from employers regarding whether a Medicare beneficiary's coverage under a group health plan is based on current employment.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 5,000.

Total Annual Responses: 5,000.

Total Annual Hours: 750.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Melissa Musotto Room N2–14–26 7500 Security Boulevard Baltimore, Maryland 21244–1850.

Julie Boughn,

Manager, HCFA Office of Information Service, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–8405 Filed 4–4–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meetings Addendum

In **Federal Register** Document 00–26024 appearing on pages 60446–60447 in the issue for Wednesday, October 11, 2000, the following meetings for the Health Professions and Nurse Education Special Emphasis Panel have been added:

Name: Residencies in the Practice of Pediatric Dentistry and Residencies and Advanced Training in the Practice of General Dentistry Peer Review Group.
Date and Time: May 7–10, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: May 7, 2001, 8 a.m. to 10 a.m.
Closed on: May 7, 2001, 10 a.m. to 6 p.m., May 8–10, 2001, 8 a.m. to 6 p.m.

Name: Faculty Leadership in Interprofessional Education to Promote Patient Safety Peer Review Group.
Date and Time: July 9–12, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 9, 2001, 8 a.m. to 10 a.m.
Closed on: July 9, 2001, 10 a.m. to 6 p.m., July 10–12, 2001, 8 a.m. to 6 p.m.

Name: Collaborative Interdisciplinary Education for Safe Practices for Patient Care Peer Review Group.
Date and Time: July 9–12, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 9, 2001, 8 a.m. to 10 a.m.
Closed on: July 9, 2001, 10 a.m. to 6 p.m., July 10–12, 2001, 8 a.m. to 6 p.m.

Name: Regional Centers for Health Workforce Studies Peer Review Group.
Date and Time: July 16–19, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 16, 2001, 8 a.m. to 10 a.m.
Closed on: July 16, 2001, 10 a.m. to 6 p.m., July 17–19, 2001, 8 a.m. to 6 p.m.

Name: Interdisciplinary Podogeriatric Program Peer Review Group.
Date and Time: July 16–19, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 16, 2001, 8 a.m. to 10 a.m.
Closed on: July 16, 2001, 10 a.m. to 6 p.m., July 17–19, 2001, 8 a.m. to 6 p.m.

Name: Interdisciplinary Faculty Development in Genetics Peer Review Group.
Date and Time: July 23–26, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 23, 2001, 8 a.m. to 10 a.m.
Closed on: July 23, 2001, 10 a.m. to 6 p.m., July 24–26, 2001, 8 a.m. to 6 p.m.

Name: Resident Policy Electives Program Peer Review Group.
Date and Time: July 23–26, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 23, 2001, 8 a.m. to 10 a.m.
Closed on: July 23, 2001, 10 a.m. to 6 p.m., July 24–26, 2001, 8 a.m. to 6 p.m.

Name: Primary Care and Oral Health Peer Review Group.
Date and Time: July 30–August 2, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: July 30, 2001, 8 a.m. to 10 a.m.
Closed on: July 30, 2001, 10 a.m. to 6 p.m., July 31–August 2, 2001, 8 a.m. to 6 p.m.

Name: Adoption Awareness Training Peer Review Group.
Date and Time: August 6–9, 2001.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: August 6, 2001, 8 a.m. to 10 a.m.
Closed on: August 6, 2001, 10 a.m. to 6 p.m., August 7–9, 2001, 8 a.m. to 6 p.m.

Dated: March 30, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–8308 Filed 4–4–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Revision of OMB No. 0925–0002/exp. 08/31/01, ''Individual National Research Service Award Application and Related Forms''

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of Extramural Research, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Individual National Research Service Award Application and Related Forms.

Type of Information Collection Request: Revision, OMB 0925–0002, Expiration Date 08/31/01.

Form Numbers: PHS 416–1, 416–9, 416–5, 416–7, 6031, 6031–1,

Need and Use of Information Collection: The PHS 416–1 and 416–9 are used by individuals to apply for direct research training support. Awards are made to individual applicants for specified training proposals in biomedical and behavioral research, selected as a result of a national competition. The other related forms (PHS 416–5, 416–7, 6031, 6031–1) are used by these individuals to activate, terminate, and provide for payback of a National Research Service Award.

Frequency of Response: Applicants may submit applications for published receipt dates. If awarded, annual progress is reported. Related forms are used at activation, termination, and to provide for payback of a National Research Service Award.

Affected Public: Individuals or Households: Business or other for profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Type of Respondents: Adult scientific trainees and professionals. The annual reporting burden is as follows:

Estimated Number of Respondents: 29,748;

Estimated Number of Responses per Respondent: 1.0834;

Average Burden Hours Per Response: 2.658; and

Estimated Total Annual Burden Hours Requested: 85,665. The estimated annualized cost to respondents is $1,985,472 (Using a $35 physician/professor average hourly wage rate, and a $12 trainee average hourly wage rate.) There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Jan Heffernan, Division of Grants Policy, Office of Policy for Extramural Research Administration, NIH, Rockledge 1 Building, Room 1196, 6705 Rockledge Drive, Bethesda, MD 20892–7974, or call non-toll-free number (301) 435–0940, or E-mail your request, including your address to: *Heffernj@OD.NIH.GOV*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before June 4, 2001.

Dated: March 19, 2001.

Carol Tippery,

Acting Director, OPERA, NIH.

[FR Doc. 01–8354 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Heath, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Sally Hu, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 265; fax: 301/402–0220; e-mail: hus@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Method of Inhibiting Viral Replication Targeting the Nucleocapsid Protein

Robert H. Shoemaker, Robert J. Fisher, and Judy A. Mikovits (NCI) DHHS Reference No. E–276–00/0 filed 05 Feb 2001

This invention concerns novel compounds that inhibit replication of retroviruses, such as HIV. These compounds act in a mechanistically distinct way from any other anti-HIV compound and appear to be relatively non-toxic. The compounds exert anti-HIV activity through inhibition of a key step in the viral replication cycle, specifically, the interaction of the nucleocapsid with nucleic acid. Clinical experience in chemotherapy of patients with AIDS has clearly shown that use of combinations of drugs acting through different mechanisms is essential for control of virus replication. Consequently, these compounds are believed to have the potential to substantially enhance anti-HIV therapy by introduction of agents acting by this novel mechanism.

Method of Preparing a Production Intermediate for HIV Protease Inhibitors

Guangyang Wang, Michael A. Eissenstat, and Tatiana Guerassina (NCI) DHHS Reference No. E–188–00/0 filed 24 Jan 2000

The invention describes a novel process amenable for the large-scale practical synthesis of cis-tetrahydro-furo[2,3-b]furan-3-one. This compound is useful as a key intermediate for the synthesis of highly potent and resistance-repellent HIV protease inhibitors that share a common component called bis-tetrahydrofuran (bis-THF). Specifically, the invention provides a method of preparing these precursors by modification of reaction temperatures, conditions and reagents leading to increased yields and purity of the desired intermediates. Such modifications would be useful in the large-scale preparation of highly potent and resistance-repellent HIV protease inhibitors currently under development as antiviral agents useful in treating AIDS.

Dated: March 29, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–8374 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting John Rambosek, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 270; fax: 301/402–0220; e-mail: rambosej@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Enhanced Homologous Recombination Mediated by Lambda Recombination Proteins

Drs. E. Lee, N. Copeland, N. Jenkins, and D. Court (NCI)

DHHS Reference No. E–077–01/0 filed 26 Feb 2001

The present invention concerns methods to enhance homologous recombination in bacterial and eukaryotic cells using recombination proteins derived from bacteriophage lambda. It also concerns methods for promoting homologous recombination using other recombination proteins. Concerted use of restriction endonucleases and DNA ligases allows in vitro recombination of DNA sequences. The recombinant DNA generated by restriction and ligation may be amplified in an appropriate microorganism such as *E. coli*, and used for diverse purposes including gene therapy. However, practical limitations imposed by this system generally results in DNA fragments with an upper limit of approximately 20 kilobases. The present invention utilizes homologous recombination instead of restriction enzymes to build DNA constructs. These DNA constructs may be several hundreds of kilobases in size. Using this invention, small linear fragments of DNA (such as a gene of interest) may be inserted efficiently and precisely into very large cloned fragments of DNA. These DNA constructs may be used for a variety of purposes, including generation of transgenic animals in which appropriate tissue specific regulation of gene expression is maintained.

Biologically Active FLAG–Epitope-Tagged Transforming Growth Factor Beta (TGF-beta) Protein

Lawrence A. Wolfraim, John J. Letterio, Kathleen Flanders, Lalage Wakefield, Anita B. Roberts (NCI)

DHHS Reference No. E–149–00/0 filed 20 Oct 2000

The current invention discloses an epitope-tagged TGF-beta that can be expressed in mammalian cells while still maintaining complete biological activity. An epitope is a region of a protein that can be recognized by an antibody. Although there are currently TGF-beta antibodies available, their usefulness is limited by cross reactivity amongst all members of the TGF family, as well as by an inability to distinguish between endogenous and exogenous TGFs. The current invention provides a means for distinguishing between these variations by epitope tagging of TGF-beta. The tag of this invention is the FLAG tag, an 8 amino acid sequence consisting of DYKDDDDK (D=aspartate, Y=tyrosine, K=lysine). Two FLAG tagged TGF constructs have been generated: the first inserts the tag at the amino terminus of the mature polypeptide and the second inserts the tag between amino acids 11 and 12 of the mature polypeptide. The core of the invention is that the insertion of the tag into these specific regions of the TGF molecule still allows for the retention of complete biological activity. Thus the tagged TGF may be monitored and distinguished by various biochemical means (through the FLAG epitope) from endogenous TGFs while at the same time the physiological effects of the tagged TGF may be analyzed as though it were a natural TGF. The TGF of the current invention may also be used to study TGF receptor expression levels, the loss of which has been correlated with various disease states, including cancers and autoimmune diseases. In addition, in the future the FLAG tag may permit the development of therapeutic compounds which could be used to ''ferry'' the TGFs to target tissues, thereby reducing side effects associated with systemic administration of TGF family proteins.

Dated: March 29, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–8375 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods and Compositions for Inhibiting HIV–Coreceptor Interactions

Oleg Chertov (NCI), Joost J. Oppenheim (NCI), Xin Chen (NCI), Connor McGrath (NCI), Raymond C. Sowder II (NCI), Jacek Lubkowski (NCI), Michele Wetzel (EM), and Thomas J. Rogers (EM)

DHHS Reference No. E–190–00/0 filed 15 Feb 2001

Licensing Contact: Sally Hu; 301/496–7056 ext. 265; e-mail: hus@od.nih.gov

This invention provides peptides that might be potent inhibitors of HIV replication, in both macrophages and T lymphocytes. Specifically, the inventors have identified peptides, from the HIV–1 gp120 envelope protein, that share structural similarities with chemokines and are shown to block ''docking'' interactions between the HIV–1 envelope protein gp120 and chemokine receptors that function as ''coreceptors'' for HIV entry on the surface of target cells (macrophages and T lymphocytes). The inventors synthesized two peptides (designated 15K and 15D) based on this information and showed that both were effective in competing with chemokines for binding to CCR5- and CXCR4-expressing cells. These peptides efficiently inhibited infection of human monocyte derived macrophages and peripheral blood mononuclear cells by different strains of HIV. The synthesized peptides also inhibited chemotaxis of CCR5 expressing transfected cells stimulated by the chemokine RANTES. Thus, these peptides and other molecules based on their structure can be potentially used as inhibitors of HIV. Moreover, these peptides could also have anti-inflammatory and anti-tumor activity. Further, it has been determined that these peptides are multi-tropic in their effects (blocking HIV interactions with multiple co-receptors) for blocking both T cell tropic (lymphotropic) and macrophage tropic (m-tropic) HIV strains.

Identification of New Small RNAs and ORFs

Susan Gottesman (NCI), Gisela Storz (NICHD), Karen Wassarman (NICHD), Francis Repoila (NCI), Carsten Rosenow (EM)

DHHS Reference No. E–072–01/0 filed 01 Feb 2001

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: soukasp@od.nih.gov

The inventors have isolated a number of previously unknown sRNAs found in E. coli. Previous scientific publications by the inventors and others regarding sRNAs have shown these sRNAs to serve important regulatory roles in the cell, such as regulators of virulence and survival in host cells. Prediction of the presence of genes encoding sRNAs was accomplished by combining sequence information from highly conserved intergenic regions with information about the expected transcription of neighboring genes. Microarray analysis also was used to identify likely candidates. Northern blot analyses were then carried out to demonstrate the presence of the sRNAs. Three of the sRNAs claimed in the invention regulate (candidates 12 and 14, negatively and candidate 31, positively) expression of RpoS, a major transcription factor in bacteria that is important in many pathogens because it regulates (amongst other things) virulence. The inventors' data show that these sRNAs are highly conserved among closely related bacterial species, including Salmonella and Klebsiella presenting a unique opportunity to develop both specific and broad-based antibiotic therapeutics. The invention contemplates a number of uses for the sRNAs, including, but not limited to, inhibition by antisense, manipulation of gene expression, and possible vaccine candidates.

Decoding Algorithm for Neuronal Responses

Barry J. Richmond, Matthew C. Wiener (NIMH)

DHHS Reference No. E–038–01/0 filed 12 Jan 2001

Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: berkleyd@od.nih.gov

The invention is a new algorithm for decoding neuronal responses based on

the discovery that neuronal spike trains can be described using order statistics. The device has applications in the direct control of prosthetic limbs by neuronal signals originating from electrodes placed in the brain. The method allows for decoding neuronal responses by monitoring sequences of potentials from neurons while specific motor tasks are carried out. The sequences are then characterized using the innovative technique of applying order statistics to the spike train, such that subsequent action potentials representing unidentified motor tasks can be decoded to determine the unknown task. The invention is of substantial importance because it appears to have achieved a closed form interpretation of neuronal responses upon which a motor prosthetic device might be based.

Expression Vectors Able to Elicit Improved Immune Response and Methods of Using Same

Pavlakis et al. (NCI)

DHHS Reference No. E–308–00/0 filed 01 Nov 2000

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

Cellular immune responses against human immunodeficiency virus type 1 (HIV–1) and the related simian immunodeficiency virus (SIV) have been shown to play an important role in controlling HIV–1 and SIV infection and in delaying disease progression. This invention relates to nucleic acids (such as DNA immunization plasmids), encoding fusion proteins containing a destabilizing amino acid sequence which increases their immunogenicity. In order to make HIV gag or env more immunogenic, several signals for proteasomal degradation were selected and linked to the proteins. One of these destabilizing amino acid sequences was found to be particularly effective. The DNA construct expressing the HIV–1 gag fusion protein was more immunogenic in mice than the HIV gag protein. Compared with gag alone, the DNA expressing the gag fusion protein evoked much higher HIV-specific proliferative responses, elevated CTL response and a high level of CD8+ IFNg-secreting cells.

Dated: March 28, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer National Institutes of Health.

[FR Doc. 01–8376 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Four U01 Family Registry Supplements and One R24 Family Registry Application.

Date: April 16, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Executive Plaza North, Conference Room E and F, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, 6116 Executive Boulevard, Room 8068, Bethesda, MD 20892, (301) 435–1822.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8364 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, P01 Program Project Grant Application.

Date: April 18, 2001.

Time: 1 p.m. to 6 PM.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Division of Extramural Activities, Grants Review Branch, 6116 Executive Boulevard, 8th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Virginia P. Wray, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8125, Rockville, MD 20892–7405, 301/496–9236.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8365 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel, NIH/NCCAM H–11 SEP.

Date: April 26–27, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Cecelia Maryland, Grants Technical Assistant, National Center for Complementary and Alternative Medicine, National Institutes of Health, Building 31, Room 5B50, Bethesda, MD 20892, (301) 480–2419.

Dated: March 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8372 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel.

Date: May 10–11, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Dulles, Dulles Corner Blvd., Herndon, VA 20171.

Contact Person: Andrew P Mariani, PhD, Chief , Scientific Review Branch, 6120 Executive Blvd., Suite 350, Rockville, MD 20892, 301/496–5561.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8358 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: April 20, 2001.

Time: 9 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Stanford Genome and Technology Center, Stanford University, School of Medicine, 855 California Avenue, Palo Alto, CA 94304.

Contact Person: Rudy O. Pozzatti, Phd, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8361 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: April 26, 2001.

Closed: 8:30 a.m. to 11 am.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Ave., N.W, Washington, DC 20036.

Open: 11 a.m. to 12 p.m.

Agenda: To discuss matters of program relevance.

Place: The Governor's House Hotel, 1615 Rhode Island Ave., NW, Washington, DC 20036.

Closed: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Ave., NW, Washington, DC 20036.

Contact Person: Jerry Roberts, Phd, Scientific Review Administrator, Office of Scientific Review, National Institutes of Health, Building 38A, Bethesda, MD 20892, 301 402–0838.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: April 26, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Ave., NW., Washington, DC 20036.

Contact Person: Rudy O. Pozzatti, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8362 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel, Special Emphasis Panel.

Date: April 6, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg 45, Rm 3AN18B, Bethesda, MD 20892–6300, (Telephone Conference Call).

Contact Person: John Richters, PhD, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: March 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8359 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Mentored Patient-oriented Research Career Development Award Applications (K23s).

Date: April 17, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, East Campus, Conference Room 3162, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Conference Grants (R13s).

Date: April 30, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education: 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8366 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, April 11, 2001, 2 p.m. to April 11, 2001, 3 p.m., NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive Research Triangle Park, NC, 27709 which was published in the **Federal Register** on January 26, 2001, FR 66:7923.

The telephone conference call meeting will be held on April 17, 2001 from 2:30 p.m. to 3:30 p.m., instead of April 11, 2001, as previously advertised. The meeting is closed to the public.

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8367 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''In Vitro Receptor Activity Determinations for Medication Development''.

Date: April 12, 2001.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Technical and Conference Assistance for DTR&D''.

Date: April 12, 2001.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8369 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: May 16–17, 2001.

Closed: May 16, 2001, 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852.

Open: May 17, 2001, 9 a.m. to 4:30 p.m.

Agenda: This portion of the meeting will be open to the public for announcements and reports of administrative, legislative and program developments in the drug abuse field.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852.

Contact Person: Teresa Levitin, PhD, Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Bethesda, MD 20892–9547, (301) 443–2755.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8370 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: April 6, 2001.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Elsie, D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891 Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: March 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8373 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel Special Emphasis Panel—Telephone Conference—RM3.

Date: April 12, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Division of Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Merlyn M. Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8363 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 8–10, 2001.

Time: 4 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, New Brunswick, Two Albany Street, New Brunswick, NJ 08901.

Contact Person: Nancy Shinowara, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, shinowan@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 9, 2001.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mariana Dimitrov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, 301–435–0902, dimitrom@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 16, 2001.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ranga V Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 16, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176 MSC 7848, Bethesda, MD 20892, (301) 435–1260.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 17–19, 2001.

Time: 8 p.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Statler Hotel, 11 East Avenue, Ithaca, NY 14853.

Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176 MSC 7806, Bethesda, MD 20892, (301) 435–1728.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 18, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104 MSC 7814, Bethesda, MD 20892, (301) 435–1787.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 30, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200 MSC 7812, Bethesda, MD 20892, (301) 435–1152, edwardss@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8355 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, April 4, 2001, 3 p.m. to April 4, 2001, 4 p.m., NIH, Rockledge 2, Bethesda, MD 20892 which was published in the **Federal Register** on March 23, 2001, 66 FR 16275–16276.

The meeting will be held on April 5, 2001, from 2 p.m. to 3 p.m. The location remains the same. The meeting is closed to the public.

Dated: March 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8356 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 28, 2001, 11 a.m. to March 28, 2001, 1 p.m., NIH, Rockledge 2, Bethesda, MD 20892 which was published in the **Federal Register** on March 29, 2001, 66 FR 17189.

The meeting will be held April 4, 2001. The time and location remain the same. The meeting is closed to the public.

Dated: March 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8357 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, April 2, 2001, 3:30 p.m. to April 2, 2001, 4:30 p.m., NIH, Rockledge 2, Bethesda, MD 20892 which was published in the **Federal Register** on March 23, 2001, 66 FR 16275–16276.

The meeting times have been changed to 4:30 p.m. to 5:30 p.m. The meeting date and location remain the same. The meeting is closed to the public.

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8368 Filed 4–4–01; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 5, 2001.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 6, 2001.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW, Washington, DC 20037.

Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 12, 2001.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David M. Monsees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7770, Bethesda, MD 20892, (301) 435–0684, monseesd@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 16, 2001.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 18, 2001.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 23, 2001.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health HHS)

Dated: March 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8371 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Genetic Aspects of Tuberculosis in the Lung (RFA00–014).

Date: April 18–19, 2001.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, N.W., Washington, DC 20007.

Contact Person: Valerie Prenger, PhD, Health Scientist Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge Center II, 6701 Rockledge Drive, Suite 7198, Bethesda, MD 20892–7924, (301) 435–0297.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 27, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–8360 Filed 4–4–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of an Application To Renew an Incidental Take Permit by O.C. Mendes for Residential Development in Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

The Permittee, O.C. Mendes, seeks renewal of an incidental take permit (ITP) originally issued August, 1994 by the Fish and Wildlife Service (Service) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed take would be incidental to otherwise lawful activities, including residential development on private land owned by the Permittee. The Permittee has implemented the provisions of the previously approved Habitat Conservation Plan (HCP), as required by section 10(a)(2)(B) of the Act, to minimize and mitigate for the incidental take of the Federally threatened Florida scrub-jay (*Aphelocoma coerulescens*).

The subject permit authorized take of one family of Florida scrub-jays on approximately 5 acres of the Permittee's land in Brevard County, Florida. The Permittee has not initiated land clearing in preparation for construction since permit issuance. Due to natural forest succession and a lack of wildfire or controlled burning since 1994, the property has diminished in value for Florida scrub-jays and they currently do not occur there. The Permittee wishes to retain incidental take authority due to the uncertainty of scrub-jays reoccupying the site. A more detailed description of the mitigation and minimization measures to address the effects of the Project to the Florida scrub-jay is provided in the Permittee's HCP, the Service's Environmental Assessment (EA), and in the **SUPPLEMENTARY INFORMATION** section below.

The Service has determined that the previously approved Environmental Assessment (EA) and Habitat Conservation Plan for Incidental Take do not need amendment. Copies of the EA, HCP, and previously issued permit may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. The Service has determined that the Permittee's request for renewal will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, renewal of the ITP is a ''low effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1).

The Service specifically requests information, views, and opinions from the public via this Notice on the federal action, including the identification of any other aspects of the human environment not already identified in the Service's EA. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's ITP issuance criteria found in 50 CFR parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE791244–2 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''david_dell@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the ITP application, draft EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before May 7, 2001.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216–0192. Written data or comments concerning the ITP renewal or HCP should be submitted to the Regional Office. Please reference permit number TE791244–2 in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313, facsimile: 404/679–7081; or Ms. Jane Monaghan, Fish and Wildlife Biologist, Jacksonville Field Office, Florida (see **ADDRESSES** above), telephone: 904/232–2580.

SUPPLEMENTARY INFORMATION: The Florida scrub-jay (scrub-jay) is geographically isolated from other subspecies of scrub-jays found in Mexico and the western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development have resulted in habitat loss and fragmentation which has adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in southwestern Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal southwest Florida occurs proximal to the current shoreline and larger river basins. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

The scrub-jay survey provided by the Permittee during project planning indicated that one family used the site and surrounding suitable habitat areas. The Applicant proposed to impact a portion of the territories of this family. Initial construction of roads and utilities and subsequent development of individual home sites was expected to result in death of, or injury to, scrub-jays incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development may have reduced the availability of feeding, shelter, and nesting habitat.

To minimize and mitigate the impacts of the loss of 1.35 acres of scrub-jay habitat, the Permittee purchased 3.0 acres of scrub habitat known to support the scrub-jay, deeded the property to Brevard County, and provided a management endowment of $3,000 to ensure management of the site in perpetuity. Other measures proposed by the Applicant include siting of individual building footprints to minimize additional scrub habitat alteration, and protection of active nests, if discovered, during the nesting season. No additional mitigation measures are proposed for the renewal.

Under section 9 of the Act and its implementing regulations, ''taking'' of endangered and threatened wildlife is prohibited. However, the Service, under limited circumstances, may issue permits to take such wildlife if the taking is incidental to and not the purpose of otherwise lawful activities. The Permittee has implemented an HCP as required by previous issuance of the incidental take permit application.

As stated above, the Service has made a preliminary determination that renewal of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP.

The Service will also evaluate whether the renewal of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to reissue the ITP.

Dated: March 27, 2001.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 01–8415 Filed 4–4–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement for Proposed Designation of Critical Habitat for the Rio Grande Silvery Minnow and Notice of Public Scoping Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent.

SUMMARY: We, the Fish and Wildlife Service (Service), are providing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared in conjunction with a new proposed rule, designating critical habitat for the endangered Rio Grande silvery minnow (*Hybognathus amarus*). On November 21, 2000, the United States District Court for the District of New Mexico, in *Middle Rio Grande Conservancy District* v. *Bruce Babbitt et al., State of New Mexico Engineer ex rel the State Engineer, New Mexico Interstate Stream Commission, and the New Mexico Attorney General* v. *Bruce Babbitt et al., and Forest Guardians et al.* v. *Bruce Babbitt et al.,* CIV 99–870, 99–872 and 99–1445M/RLP (Consolidated) ordered us to issue within 120 days both an EIS and a new proposed rule designating critical habitat for the Rio Grande silvery minnow. Public scoping meetings will be held on April 17, 2001, at the Indian Pueblo Cultural Center, Albuquerque, New Mexico, on April 23, 2001, at the New Mexico State University Instructional Building, Carlsbad, New Mexico and on April 24, 2001, at the Pecos County Commission, Fort Stockton, Texas.

We anticipate that public interest in the proposal to designate critical habitat will be high. Thus, we have scheduled three public scoping meetings to be held in Albuquerque and Carlsbad, New Mexico, and Fort Stockton, Texas (see **DATES** and **ADDRESSES** section). This notice and public scoping meetings will allow all interested parties to submit comments and/or relevant information to be considered in the preparation of a draft EIS for the new proposed designation. We are seeking comments or suggestions from the public, other concerned governmental agencies,

tribes, the scientific community, industry, or any other interested parties concerning the scope of the analysis and preparation of an EIS. We also identify the Service Official to whom questions and comments should be directed concerning the development of a new proposed rule and the EIS.

DATES: We will hold public scoping meetings to solicit comments and suggestions on the scope of the EIS analysis and proposed alternatives. We will hold scoping meetings from 6 to 9 p.m. on April 17, 2001, at the Indian Pueblo Cultural Center, Albuquerque, New Mexico; on April 23, 2001, at the New Mexico State University Instructional Building, Carlsbad, New Mexico; and on April 24, 2001, at the Pecos County Commission, Fort Stockton, Texas. We encourage your written comments which we must receive for consideration on or before June 4, 2001.

We will give notice for the draft EIS (DEIS) once it's prepared. We will solicit comments on the DEIS for a minimum 45-day public comment period so that interested and affected people may participate and contribute to the preparation of a final EIS. In addition, we intend to develop a new proposed rule designating critical habitat for the Rio Grande silvery minnow and solicit comments or suggestions on reasons why any particular area should or should not be designated as critical habitat, information on the distribution and quality of habitat for the silvery minnow, land or water use practices and current or planned activities in areas that may be affected by a redesignation of critical habitat, and any other pertinent issues of concern.

ADDRESSES: Information, comments, or questions related to preparation of the EIS and the National Environmental Policy Act process should be submitted to Joy Nicholopoulos, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico, 87113. Written comments may also be sent by facsimile to (505) 346–2542 or by email to FW2 ES NewMexico@fws.gov. All comments, including names and addresses, will become part of the administrative record and may be released.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process, preparation of the EIS, or development of a new proposed rule designating critical habitat may be directed to Joy Nicholpoulos (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service proposed to list the Rio Grande silvery minnow as an endangered species with critical habitat on March 1, 1993 (58 FR 11821). The public comment period, originally scheduled to close on April 30, 1993, was extended until August 25, 1993 (58 FR 19220), to conduct public hearings and allow submission of additional comments. We held public hearings in Albuquerque and Socorro, New Mexico, on the evenings of April 27 and 28, 1993, respectively.

We published the final rule to list the Rio Grande silvery minnow on July 20, 1994 (59 FR 36988). At that time, we found that critical habitat was not determinable because there was insufficient information to perform required analyses of the potential impacts of the designation. An economic analysis was conducted by a contractor to determine the economic effects of the designation in September 1994; the draft analysis was provided to us in February 1996 and transmitted to all interested individuals on April 26, 1996. We notified the public that, because of the moratorium on final listing actions and determinations of critical habitat imposed by Public Law 104–6, no work would be conducted on the analysis or on the final decision concerning critical habitat. However, we solicited comments from the public and agencies for use when such work resumed. On February 22, 1999, the United States District Court for the District of New Mexico, in *Forest Guardians and Defenders of Wildlife* v. *Bruce Babbitt,* CIV 97–0453 JC/DIS, ordered us to publish a final determination with regard to critical habitat for the Rio Grande silvery minnow within 30 days of that order. Subsequently, on March 22, 1999, the Court ordered that we would be allowed an additional 90 days for the final designation. We published a final determination of critical habitat for the Rio Grande silvery minnow on July 6, 1999 (64 FR 36274). On July 8, 1999, we finalized the Rio Grande silvery minnow recovery plan (USFWS 1999). On November 21, 2000, the United States District Court for the District of New Mexico ordered the Service to issue a new proposed rule designating critical habitat for the Rio Grande silvery minnow within 120 days, and to simultaneously issue an EIS.

A new proposal to designate critical habitat for the Rio Grande Silvery minnow may be substantially different from the previously designated critical habitat. The process to propose critical habitat will include at least the following elements: (1) Compile and analyze all new biological information on the species; (2) review and update the administrative record; (3) review the overall approach to the conservation of the Rio Grande silvery minnow undertaken by the local, State, Tribal, and Federal agencies operating within the Middle Rio Grande Valley and other areas where the species historically occurred; (4) review available information that pertains to the habitat requirements of this species, including material received during the public comment period from this notice and comments on the listing and previous designation; (5) review actions identified in the Rio Grande silvery minnow recovery plan (USFWS 1999); (6) determine what areas might require ''special management considerations or protections'' pursuant to the definition of critical habitat in section 3 of the Act; (7) develop a precise definition of the primary constituent elements, including a discussion of the specific biological and physical features essential to the survival of the silvery minnow; (8) precisely map critical habitat within river reaches; (9) analyze the potential economic consequences of designating critical habitat; and (10) analyze the potential consequences through NEPA.

Several considerations may influence the alternatives we are considering. For example, we will be evaluating reintroduction sites within the historic range of the Rio Grande silvery minnow to determine whether these areas require ''special management considerations or protections.'' Similarly, we know that we must give careful consideration to the compatibility of Rio Grande silvery minnow management with the existing purposes and uses of such lands and waters. This issue, in particular, is one for which we are seeking public input. We welcome information on historically or currently occupied areas that may contain the physical and biological features essential to the conservation of the Rio Grande silvery minnow and that may warrant ''special management considerations or protections'' and should be designated critical habitat (i.e., stream reaches).

The DEIS will consider all reasonable alternatives for the designation of critical habitat for the Rio Grande silvery minnow. Potential alternatives to designate critical habitat for the Rio Grande silvery minnow may include one or more of the following: (1) No action; (2) examining the entire Middle Rio Grande reach by reach; (3) designating the Pecos River in New Mexico; (4) designating the Pecos River in Texas; (5) designating the entire Rio

Grande in New Mexico and Texas; and (6) designating the entire historic range in the Pecos River in New Mexico and Texas, and the Rio Grande in New Mexico and Texas. Because we have not completed the elements in the critical habitat process identified above (e.g., compiled and analyzed all new biological information on the species; determined what areas might require ''special management considerations or protections''; etc.) we do not know what the preferred alternative (the proposed action) or other alternatives might entail. Once identified, the alternatives will be carried forward into detailed analyses pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 432 *et seq.*).

The Service is the lead Federal agency for compliance with NEPA for this action. The DEIS will incorporate public concerns in the analysis of impacts associated with the proposed action and associated project alternatives. The DEIS will be sent out for a minimum 45-day public review period, during which time comments will be solicited on the adequacy of the document. The Final EIS will address the comments received on the DEIS during public review, and will be furnished to all who commented on the DEIS, and made available to anyone who requests a copy.

This notice is provided pursuant to regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

Dated: March 26, 2001.

Frank S. Shoemaker, Jr.,

Acting Regional Director, Region 2.

[FR Doc. 01–8465 Filed 4–4–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Meeting of the Alaska Migratory Bird Co-management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Alaska Migratory Bird Co-management Council has scheduled a public meeting to continue development of recommendations for regulations for the spring/summer migratory bird subsistence harvest for the period between March 10 and September 1, 2002.

DATES: The co-management Council will meet April 26–27, 2001.

ADDRESSES: The meeting will be conducted at the Hawthorn Suites Hotel at 1110 W. 8th Avenue in Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: For additional information call Mimi Hogan at 907/786–3673 or Bob Stevens at 907/786–3499. Individuals with a disability who may need special accommodations in order to participate in the public comment portion of the meeting should call one of the above numbers.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service formed the Alaska Migratory Bird Co-Management Council, which includes Native, State, and Federal representatives as equals, by means of a Notice of Decision published in the **Federal Register**, 65 FR 16405–16409, March 28, 2000. The amended Migratory Bird Treaty with Canada required the formation of such a management body. The Co-management Council will make recommendations for, among other things, regulations for spring/summer harvesting of migratory birds in Alaska. In addition to creation of the Co-management Council, the Notice of Decision identified seven geographic regions. Each region will submit to the Co-management Council requests for specific regulations for its area. The Co-management Council will then develop recommendations for statewide regulations and submit them to the Fish and Wildlife Service for approval.

The meeting of the Co-management Council will begin Thursday, April 26 at 8:30 a.m. Sessions on April 27 will also begin at 8:30 a.m. The primary agenda item will be deliberation of recommendations for regulations. The public is invited to attend. The Co-management Council will provide opportunities for public comment on agenda items at the beginning of each day and at the close of the session on April 27. Additional opportunities may be provided at the discretion of the Co-management Council. Agendas will be available at the door.

Dated: March 22, 2001.

Gary Edwards,

Deputy Regional Director, Anchorage, Alaska.

[FR Doc. 01–8407 Filed 4–4–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5410–EQ–B139; CACA 42646]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In **Federal Register** notice document 01–7309 beginning on page 16487 in the issue of Monday, March 26, 2001, make the following correction:

On page 16487 in the second column the legal description reads, ''sec. 6, NW¼ NE¼''. This should read, ''sec. 6, SE¼NW¼, SW¼NE¼''.

Dated: March 28, 2001.

Tom Gey,

Acting Chief, Branch of Lands.

[FR Doc. 01–8406 Filed 4–4–01; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–926 and 927 (Preliminary)]

Spring Table Grapes From Chile and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731–TA–926 and 927 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Chile and Mexico of spring table grapes, provided for in subheading 0806.10.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by May 14, 2001. The Commission's views are due at the Department of Commerce within five business days thereafter, or by May 21, 2001.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: March 30, 2001.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179/ ffischer@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *http://www.usitc.gov.* The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on March 30, 2001, by the Desert Grape Growers League, Thermal, CA, and its producer-members.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 20, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Fischer (202–205–3179/ ffischer@usitc.gov) not later than April 17, 2001, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 25, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: March 30, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–8383 Filed 4–4–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—4C Founders

The notice on behalf of 4C Founders published in the **Federal Register** on Thursday, January 11, 2001 (66 FR 2447) should be corrected to read as follows:

Notice is hereby given that, on November 2, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), 4C Founders has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Intel Corporation, Santa Clara, CA; International Business Machines Corporation, Armonk, NY; Matsushita Electric Industrial Co., Ltd., Osaka, Japan; and Toshiba Corporation, Tokyo, Japan.

The nature and objectives of the venture are to develop interoperable specifications for the protection of copyrighted digital audio and video content from unauthorized interception and copying; and to promote adoption of the specifications by (i) licensing them on reasonable and nondiscriminatory terms; (ii) providing technical support to adopters, content providers, and others who implement the specifications; (iii) generating and supplying keys for encryption and decryption of the digital content so protected; (iv) providing a means to receive comments and feedback from parties implementing the specifications; and (v) consulting with standards bodies, and others engaged in related specifications efforts, and potential users of the specifications. The 4C Founders' specifications will include information directing specific implementations only as necessary to enable, promote, and improve protection of digital audio and video content; to preserve the security of the protection method; and to promote interoperability of products (including information technology and consumer electronic devices), media which implement the specifications, and the

means for distributing content so protected.

In furtherance of the purposes stated above, the 4C Founders may, among other things, engage in theoretical analysis; experimentation; systematic study; research; development; testing; extension of investigative findings or theories of a scientific or technical nature into practical application for experimental and demonstration purposes; collection, exchange and analysis of research or production information; enter into agreements to carry out the objectives of the Founders; establish and operate facilities for conducting such venture; conduct such venture on a protected and proprietary basis; prosecute applications for patents and grant licenses for the results of such venture; and any combination of these activities.

Membership in this group research project remains open, and 4C Founders intends to file additional written notification disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–8409 Filed 4–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Computer Telephony Forum

Notice is hereby given that, on December 15, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Enterprise Computer Telephony Forum (''ECTF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Avaya, Inc., Westminster, CO; and KONAN Technology, Inc., Seoul, Republic of Korea have been added as parties to this venture. Also, Lucent Technologies, Holmdel, NJ has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ECTF intends to file additional written notifications disclosing all changes in membership.

On February 20, 1996, ECTF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 1996 (61 FR 22074).

The last notification was filed with the Department on October 10, 2000. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 11, 2001 (66 FR 2448).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–8411 Filed 4–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Organic ASICs

Notice is hereby given that, on October 26, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Motorola, Inc. has filed written notifications, on behalf of a joint venture known as Organic ASICs, simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are The Dow Chemical Company, Midland, MI; Motorola, Inc., Schaumburg, IL; and Xerox Corporation, Palo Alto, CA. The nature and objectives of the venture are to engage in a collaborative effort of limited duration to gain further knowledge and understanding of, and to develop new materials and technology for, devices fabricated from organic semiconductor materials.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–8408 Filed 4–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute (''SwRI''): Clean Diesel III

Notice is hereby given that, on March 12, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI''): Clean Diesel III has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Texaco Energy Systems Inc., Houston, TX has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SwRI: Clean Diesel III intends to file additional written notification disclosing all changes in membership.

On January 12, 2000, SwRI: Clean Diesel III filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 26, 2000 (65 FR 39429). The last notification was received by the Department on January 4, 2001. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–8410 Filed 4–4–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2114–01; AG Order No. 2420–2001]

RIN 1115–AE26

Extension and Redesignation of Angola Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On March 29, 2000, the Attorney General designated Angola under the Temporary Protected Status

(TPS) program for a 12-month period that expires on March 29, 2001. This initial designation allowed eligible nationals of Angola (and aliens having no nationality who last habitually resided in Angola) who had continuously resided in the United States since that date to apply for TPS. This notice extends the TPS designation for Angola for another 12-month period (until March 29, 2002), and sets forth the procedures by which nationals of Angola (and aliens having no nationality who last habitually resided in Angola) who previously registered for TPS may reregister for the TPS program. This notice also redesignates Angola under the TPS program, thereby expanding TPS eligibility to include nationals of Angola (and aliens having no nationality who last habitually resided in Angola) who, among other requirements described below, have been ''continuously physically present in the United States'' and who have ''continuously resided in the United States'' since April 5, 2001.

EFFECTIVE DATES:

Extension of Designation and Reregistration

The extension of Angola's TPS designation is effective March 29, 2001, and will remain in effect until March 29, 2002. Nationals of Angola (and aliens having no nationality who last habitually resided in Angola) who are currently registered under the TPS program must reregister during the 30-day period from April 5, 2001 until May 7, 2001.

Redesignation

The redesignation of Angola under the TPS program is effective April 5, 2001, and will remain in effect until March 29, 2002. The registration period for TPS under the redesignation begins on April 5, 2001 and will remain in effect until March 29, 2002.

FOR FURTHER INFORMATION CONTACT:

Rebecca Peters, Program Analyst, Immigration and Naturalization Service, 425 I Street, NW., Room 3040, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Attorney General To Extend Angola's TPS Designation Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (the Act) states that at least 60 days before the end of a designation, or any extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine under this section that the foreign state no longer meets the conditions for redesignation, the period of designation is automatically extended for 6 months pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). The period of designation may, however, be extended to 12 or 18 months at the Attorney General's discretion. 8 U.S.C. 1254a(b)(3)(C). Such an extension makes TPS available only to persons who have been continuously physically present in, and who have continuously resided in, the United States from the effective date of the initial designation, in this case, since March 29, 2000.

What Is the Statutory Authority for the Attorney General To Redesignate Angola for TPS?

Section 244 of the Act implicitly authorizes the Attorney General to redesignate a foreign state (or any part of such foreign state) under the TPS program. Whereas extension of an existing TPS designation extends benefits only to those who previously registered for TPS under the earlier designation, redesignation broadens the potential class of TPS beneficiaries to include both those who failed to register during the earlier designation period, as well as those who arrived in the United States after the effective date of the earlier designation but on or before the effective date of the redesignation, if such aliens are otherwise admissible and eligible for TPS. 8 U.S.C. 1254a(c)(1)(A).

Why Did the Attorney General Decide To Both Extend and Redesignate Angola Under the TPS Program?

On March 29, 2000, the Attorney General designated Angola under the TPS program. Since that time, the Attorney General and the Department of State have continuously examined conditions in Angola. A recent Department of State report on conditions in Angola. A recent Department of State report on conditions in Angola found that, ''Fighting between UNITA [the National Union for Total Independence of Angola] and Angolan Government forces [continues and is] widespread throughout much of the country.'' ''Hundreds of thousands of Angolans remain displaced along the international boundaries in the east and south of the country,'' and ''[r]efugees continue to arrive in Namibia, Zamibia, and the Democratic Republic of Congo (DRC).'' The memorandum further states that ''[f]ighting [is] expected to continue well into the next year'' and ''[t]he situation in Angola remains unsafe for return'' of nationals, who ''would be at risk of becoming casualties.'' ''The Government has regained control of many provincial capitals over the past year, but does not effectively control many rural areas.'' While the ''warring parties have repeatedly subjected the civilian population to forced displacements and acts of violence,'' the cities remain overcrowded, vitamin deficiency-induced illnesses and malnutrition flourish alongside horrific water and sanitation conditions creating an environment for disease and epidemics such as polio and meningitis.

Based on these and other findings, the Attorney General has determined that conditions in Angola warrant both the extension and redesignation of Angola under the TPS program. This order will extend the availability of TPS for those Angolans who registered under the initial designation of TPS, and will also open the program to both those who failed to register during the initial designation period and those who arrived in the United States after the effective date of the earlier designation, but on or before the effective date of redesignation. 8 U.S.C. 1254a(c)(1)(A).

If I Currently Have TPS Through the Angola TPS Program, Do I Still Reregister for TPS?

Yes. If you were granted TPS based on the initial designation of Angola, your status [will] expire[d] on March 29, 2001. Accordingly, you must register for TPS in order to maintain your status through March 29, 2002. See the reregistration instructions below.

If I Am Currently Registered for TPS, How Do I Reregister for an Extension?

All persons previously granted TPS under the Angola program who wish to maintain such status must apply for an extension by filing (1) a Form I–821, without the $50 filing fee, (2) a form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches x 1½ inches). See Chart 1 below to determine whether you must submit the $100 filing fee with Form I–765. Applicants for an extension of TPS benefits do not need to be refingerprinted and thus need not pay the $25 fingerprint fee.

Submit the completed forms and applicable fee, if any, to the Service district office having jurisdiction over your place of residence during the 30-day registration period that begins April 5, 2001 and ends (inclusive of such end date).

If you fail to reregister during the 30-day reregistration period, you may apply for TPS under the redesignation, as described in the section below.

CHART 1

If	Then
You are a national of Angola (or any person having no nationality who last habitually resided in Angola) and are applying for employment authorization through March 29, 2002.	You must complete and file: (1) Form I–765, Application for Employment Authorization with the $100 filing fee.
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–765 with no filing fee.
You are a national of Angola (or any person having no nationality who last habitually resided in Angola) applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, and (2) Form I–765 with no fee.

If I Am Not Currently Registered for TPS, How Do I Register Under the Redesignation?

Applicants who are not currently registered for TPS may register under the redesignation by submitting:

- An Application for Temporary Protected Status, Form I–821 with the $50 processing fee or a request for a fee waiver;
- An Application for Employment Authorization, Form I–765;
- Two identification photographs (1½ x 1½ inches);
- Supporting evidence, as provided in 8 CFR 244.9 (describing evidence necessary to establish eligibility for TPS benefits); and
- For every applicant who is 14 years of age or older, a twenty-five dollar ($25) fingerprint fee.

8 CFR 244.6. While a complete application must include the fingerprint fee for every applicant who is 14 years of age or older, applicants should not submit a completed fingerprint card (FD–258, Applicant Card) with the application package. The application will be accepted without the fingerprint card attached. After the Service receives the application, the Service will mail an appointment letter with instructions to appear for fingerprinting at a Service-authorized site. See Chart 2 below to determine what fees must be submitted with the application package and to obtain information on requesting (a) fee waiver(s).

Submit the completed forms and applicable fees to the Service district office having jurisdiction over your place of residence during the registration period that begins April 5, 2001 and ends March 29, 2002 (inclusive of such end date).

CHART 2

If	Then
You are a national of Angola (or a person having no nationality who last habitually resided in Angola) and are applying for TPS and employment authorization through March 29, 2002.	You must complete and file: (1) Form I–821, Application for Temporary Protected Status, with fee ($50), (2) Form I–765, Application for Employment Authorization, with fee ($100), and (3) Fingerprint fee ($25).
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–821, with fee ($50), (2) Form I–765, with no fee, and (3) Fingerprint fee ($25).
You are applying for TPS and employment authorization and are requesting a fee waiver for the Form I–821 fee ($50) and Form I–765 fee ($100).	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, (2) Form I–821, with no fee, (3) Form I–765, with no fee, and (4) Fingerprint fee ($25).

What Are the Requirements for Nationals of Angola To Demonstrate That They Have Been ''Continuously Physically Present'' and Have ''Continuously Resided'' in the United States?

All applicants for TPS must demonstrate that they have been ''continuously physically present,'' and have ''continuously resided,'' in the United States since April 5, 2001. ''Continuously physically present'' means actual physical presence in the United States for the entire period specified. An applicant shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of ''brief, casual, and innocent absences,'' as the phrase is defined in 8 CFR 244.1. ''Continuously resided'' means residing in the United States for the entire period specified. An applicant will not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the applicant.

For new applicants who seek to register for the first time under the redesignation of Angola for TPS, 8 CFR 244.9 provides a non-exhaustive list of documents with which applicants may demonstrate their identity, nationality, and residency.

For those individuals who are previously registered for TPS and who seek to reregister under the extension of TPS for Angola, completing the block on

Form I–821 attesting to the continued maintenance of the conditions of eligibility will generally preclude the need for supporting documents or evidence. The Service, however, reserves the right to request additional information and/or documentation on a case-by-case basis.

Notice of Extension of Designation and Redesignation of Angola Under the TPS Program

By the authority vested in me as Attorney General under section 244 of the Act, and as required by sections 244(b)(3)(A) and (C), and 244(b)(1) of the Act, I have consulted with the appropriate government agencies concerning the redesignation of Angola under the TPS program and the extension of that country's current TPS designation. From these consultations, I find the following:

(1) There exists an ongoing armed conflict in Angola and, due to such conflict, returning Angolan nationals (and aliens having no nationality who last habitually resided in Angola) would pose a serious threat to their personal safety;

(2) There exists extraordinary and temporary conditions in Angola that prevent aliens who are nationals of Angola (and aliens having no nationality who last habitually resided in Angola) from returning to Angola in safety; and

(3) Permitting nationals of Angola (and aliens having no nationality who last habitually resided in Angola) to remain temporarily in the United States is not contrary to the national interest of the United States. 8 U.S.C. 1254a(b)(1)(A) and (C).

Accordingly, I order as follows:

(1) The designation of Angola is extended for the 12-month period spanning from March 29, 2001, to March 29, 2002. 8 U.S.C. 1254a(b)(3)(A) and (C). Nationals of Angola (and aliens having no nationality who last habitually resided in Angola) who received TPS during the initial designation period may apply for an extension of TPS during the 30-day reregistration period from April 5, 2001 until May 7, 2001.

(2) Angola is redesignated for TPS for the period effective April 5, 2001 and ending March 29, 2002. 8 U.S.C. 1254a(b)(2). Nationals of Angola (and aliens having no nationality who last habitually resided in Angola) who have been ''continuously physically present'' and have ''continuously resided'' in the United States before or on April 5, 2001, may apply for TPS within the registration period, which begins April 5, 2001 and ends on March 29, 2002 (inclusive of such end date).

(3) I estimated that there are approximately 3,372 nationals of Angola (and aliens who have no nationality and who last habitually resided in Angola) who were granted TPS and are eligible for reregistration, and no more than 3,300 nationals of Angola (and aliens who have no nationality and who last habitually resided in Angola) who are not currently registered for TPS, but who are eligible for TPS under this redesignation.

(4) To maintain TPS, a national of Angola (or an alien having no nationality who last habitually resided in Angola) who is currently registered for TPS must reregister by filing Form I–821, together with Form I–765, within the period beginning April 5, 2001 and ending on May 7, 2001 (inclusive of such end date). There is no fee for a Form I–821 filed as part of the reregistration application. A Form I–765 must be filed with the Form I–821. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file a Form I–765 along with the Form I–821, but is not required to submit the fee.

(5) A national of Angola (or an alien having no nationality who last habitually resided in Angola) applying for TPS under the redesignation must file a Form I–821, together with the Form I–765, within the period beginning April 5, 2001, and ending on March 29, 2002. A fifty-dollar ($50) fee must accompany the Form I–821. If the applicant requests employment authorization, he or she must submit a one hundred dollar ($100) fee with the Form I–765, A twenty-five dollar ($25) fingerprinting fee must also be submitted for every applicant who is 14 years of age or older. An applicant who does not request employment authorization must nonetheless file a Form I–765 along with the Form I–821, but is not required to submit the $100 fee for the Form I–765. The applicant may request (a) fee waiver(s) in accordance with 8 CFR 244.20.

(6) Pursuant to section 244(b)(3)(A) of the Act, I will review, at least 60 days before March 29, 2002, the designation of Angola under the TPS program to determine whether the conditions for designation continue to be met.

(7) Information concerning the extension and redesignation of Angola under the TPS program will be available at local Service offices upon publication of this notice.

Dated: March 30, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–8422 Filed 4–4–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 19, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail to King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

*Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

*Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

*Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

*Enhance the quality, utility, and clarity of the information to be collected; and

*Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Records to be Kept by Employers—FLSA.

OMB Number: 1215–0017.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; Farms; Federal Government; and State, Local, or Tribal Government.

Frequency: Weekly.

Annual Respondents: 5.8 million.

Annual Responses: 5.8 million.

Estimated Time per Recordkeeper: 1 hour.

Total Burden Hours: 926,156.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: These records are maintained in order that employer compliance with the Fair Labor Standards Act can be determined by the U.S. Department of Labor.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–8340 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 19, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316) within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Application for a Permit to Fire More than 20 Boreholes for the Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units.

OMB Number: 1219–0025.

Affected public: Business or other for-profit.

Frequency: On occasion.

Number of Respondents: 55.

Number of Annual Responses: 161.

Estimated Time Per Response: Varies from approximately 20 minutes to post a misfire notice to approximately 1 hour to apply for a permit.

Total Burden Hours: 90.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $650.

Description: 30 CFR 75.1321 and 77.1909–1 allows coal mine operators to apply for and be grated a permit to use nonpermissible explosives and nonpermissible shot-firing units. When a misfire cannot be disposed of, 30 CFR 75.1327 requires that notices of misfires be posted by a qualified person. The continued approval for these information collection requirements is necessary to ensure the safety of miners when nonpermissible blasting items are used by mine operators.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 01–8341 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 19, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail to King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Certification by School Official.

OMB Number: 1215–0061.

Affected Public: State, Local, or Tribal Government and Not-for-profit institutions.

Frequency: Annually.

Annual Respondents: 1,000.

Annual Responses: 1,000.

Estimated Time per Response: 10 minutes.

Total Burden Hours: 167.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Form CM–981 is completed by a school official to verify whether a beneficiary's dependent, aged 18–23, qualifies as a full-time student under the provisions of the Blacklung Benefits Act, 30 U.S.C. 902(g) and 20 CFR 725.209 or 20 CFR 410.370.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–8342 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,000 and NAFTA–3402]

Barry Callebaut Usa, Incorporated, Van Leer Division, Jersey City, New Jersey; Notice of Negative Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Barry Callebaut* v. *Herman, United States Secretary of Labor,* No. 00–05–00202.

The Department's initial denial of Trade Adjustment Assistance (TAA) for the workers producing chocolate and ingredients at Barry Callebaut Usa, Inc., was based on the finding that criterion (3) of the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, was not met. The decision was signed on December 12, 1999, and published in the **Federal Register** on December 28, 1999 (64 FR 72691).

The Department's initial denial of North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) for the same worker group, was based on the finding that criteria (3) and (4) of paragraph (a)(1) of the group eligibility requirements of Section 250 of the Trade Act of 1974, as amended, were not met. The notice was issued on November 15, 1999, and published in the **Federal Register** on February 4, 2000 (65 FR 5691).

The petitioners request for reconsideration of the Department's negative determinations for TA–W–37,000 and NAFTA–3402, resulted in a negative determination on the application, which was issued on March 6, 2000, and published in the **Federal Register** on March 15, 2000 (65 Fed. Reg. 13991).

On remand, the Department contacted officials of Barry Callebaut, Usa, Incorporated, to obtain additional information to address the petitioners claims regarding the shift in production and machinery from the Jersey City, New Jersey plant to Canada. The Department was informed that the contact person identified in the petitions, and in the request for reconsideration, was no longer employed with the company. The Department did, however, locate the individual, who did not provide any new information regarding the transfer of production and the disposition of the machinery at the Jersey City plant.

The Workers of Barry Callebaut Usa, Incorporated, Van Leer Division, Jersey City, New Jersey, producted chocolate, sugar-free chocolate and snaps. The workers also produced chocolate liquor, cocoa butter and cocoa cake, which are ingredients used to make the finished products. This new information with respect to the cocoa cake differs from the initial investigation finding that cocoa powder was produced at the plant. Barry Callebaut officials report that cocoa cake is further processed to make cocoa powder. Other new information obtained from the company show that the workers producing chocolate, sugar-free chocolate and snaps are separately identifiable from the workers producing chocolate liquor, cocoa butter and cocoa cake.

Findings on remand revealed that the vast majority of chocolate, sugar-free chocolate and snap production at Jersey City was shifted to other Barry Callebaut domestic locations. A negligible amount of these articles was shifted from the subject firm plant to Canada. Company imports of chocolate, sugar-free chocolate and snap are insignificant.

Findings on remand with respect to the chocolate liquor, cocoa butter and cocoa cake produced in Jersey City, show a shift in production to other domestic locations of Barry Callebaut. A negligible amount of these articles was shifted to Canada. The company data for 1998 and 1999, show that imports of chocolate liquor are negligible. The company imports cake but did increase their purchases from 1998 to 1999. The company was significantly increased their domestic production of cake during the relevant period. Company imports of cocoa butter account for a negligible portion of the company's domestic needs.

On remand, Barry Callebaut submitted data for 1998 and 1999, which show increases in domestic sales and production, on a company-wide basis, of finished products and the ingredients.

The domestic company locations producing candy and ingredients are located in St. Albans, Vermont, Pennsauken, New Jersey and Piscataway, New Jersey, with the headquarters for these locations in St. Hyacinthe, Quebec, Canada.

Other findings on remand show that after the purchase and analysis of production at the Jersey City factory, Barry Callebaut officials determined the equipment and machinery were obsolete and not cost efficient. Some equipment used for the production of specific panning products was shifted to the Piscataway, New Jersey plant. The vast majority of other equipment and machinery was shifted to the company's domestic and Canadian locations to be used to produce product lines that had not been produced at the subject plant. Some equipment was for sale or used as a write-off.

Conclusion

After reconsideration on remand, I affirm the original notices of negative determination of eligibility to apply for adjustment assistance and NAFTA-TAA for workers and former workers of Barry Callebaut Usa, Inc., Van Leer Division, Jersey City, New Jersey.

Signed at Washington, D.C. this 22nd day of March 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8334 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,458 and NAFTA–4373]

Country Roads, Inc. Greenville, MI; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 17, 2001, the company requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notices were signed on January 10, 2001, and were published in the **Federal Register** on February 8, 2001 (66 FR 9599) and (66 FR 9600), respectively.

The company asserts that in addition to refurbishing auditorium seats, the workers at the Greenville plant also produced new auditorium seats.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 13th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8328 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and MAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February and March, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,575; Rossville Chromatex, Plant #2, Div. of Culp, Inc., West Hazelton, PA
TA–W–38,397; Owens–Brockway, Glass Container, Brockway, PA
TA–W–38,624; Johnstown America corp., Franklin and Shell Plants, Johnstown, PA
TA–W–38,374; Owens–Brockway, Glass Container, Brockway, PA
TA–W–38,492; Wellman of Mississippi, Inc., Pearl River Plant, Bay St. Louis, MS
TA–W–38,294; Cyprus Thompson Creek Mining Co., Clayton, ID
TA–W–38,550; Pottstown Precision Casting, Inc., Harvard Industries, Inc., Formerly Known as Doehler Jarvis, Stowe, PA
TA–W–37,976; S and S Glass Specialties, Inc., Wauseon, OH
TA–W–38,630; North Douglas Wood Products, Inc., Drain, OR
TA–W–38,368; Crown Pacific Limited Partnership Coeur D'Alene, ID
TA–W–38,422; LTV Steel Corp., Aliquippa Works, Tin Mill Dept., Aliquippa, PA

In the following cases, the investigations revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–38,538; Southern Oregon Log Scaling and Grading Bureau, Roseburg, OR
TA–W–38,637; SPX Corp., Service solutions, Jackson, MI
TA–W–38,610; Kodak Polychrome Graphics, LLC (''KPG''), Research and Development Carlstadt, NJ
TA–W–38,660; VF Imagewear (West), Inc., Todd Uniforms, Henning, TN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,390; Eaton Corp., Mobile Hydraulic Div., Carol Stream, IL
TA–W–38,372; Alcoa Lebanon Works, Lebanon, PA
TA–W–38,545; Sappi Fine Paper Co., North America, Muskegon, MI
TA–W–38,663; Johnson Electric Automotive, Inc., Brownsville, TX
TA–W–38,556; Con–Vey Keystone, Inc., Roseburg, OR
TA–W–38,498; Ingersoll Co., Mayfield, KY
TA–W–38,478; Mother Parker's Tea and Coffee, Inc., Amherst, NY
TA–W–38,589; Collins & Aikman Automotive Interior Systems, Canton, OH
TA–W–38,509; Brown Packing Co., Inc., Little Rock, AR
TA–W–38,386 & A; Unocal, Sugarland, TX and Lafayette, LA
TA–W–38,380; Rexam Medical Packaging, Mt. Holly, NJ
TA–W–38,528; Griffin Wheel Co., Bessemer, AL
TA–W–38,501; Photobit Corp., Pasadena, CA
TA–W–38,301; York International Unitary Products Group, Elyria, OH
TA–W–38,539; Spreckels Sugar Co., Div. of Imperial Sugar Co., Tracy, CA
TA–W–38,559; Spreckels Sugar Co., Div. of Imperial Sugar Co., Woodland, CA
TA–W–38,295; Bobst Group, Inc., Engineering Dept., Roseland, NJ
TA–W–38,503; Turner Industries II, Ltd., Mayfield, KY
TA–W–38,597; Commonweaalth Aluminum, Lewisport, KY

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–38,584; Millennium Plastic Technologies, LLC, El Paso, TX

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,560; Bayer Corp., Consumer Care Div., Elkhart, IN

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–38,400; Potlatch Corp., Cloquet, MN: November 27, 1999.
TA–W–38,464; Carolina Narrow Fabric Co., Sparta, NC: December 6, 1999.
TA–W–38,619; Schumacher Electric Corp., Rensselaer, IN: January 15, 2000.
TA–W–38,647; Milacron Resin Abrasives, Inc., Carlisle, PA: January 26, 2000.
TA–W–38,392; Hagale Industries, Inc., Ava, MO: October 27, 1999.
TA–W–38,353; Langston Corp., Cherry Hill, NJ: November 6, 1999.
TA–W–38,700; Challenger Electric Co., Pageland, SC: February 2, 2000.
TA–W–38,690; C-Cor.Met Corp., State College, PA: February 6, 2000.
TA–W–38,657; Lanier Clothes, Greenville, GA: February 19, 2001.
TA–W–38,302; Ohaus Corp., Florham Park, NJ: October 25, 1999.
TA–W–38,678; Monona Wire Corp., Wauzeka, WI: January 31, 2000.

TA–W–38,659; Motorola Energy Systems Group, Lawrenceville, GA: January 26, 2000.
TA–W–38,665; Victor Equipment Co., Denton, TX: January 30, 2000.
TA–W–38,460; Crompton and Knowles Color, Inc., Nutley, NJ: December 5, 1999.
TA–W–38,526; Victor Equipment Co., Abilene, TX: December 21, 1999.
TA–W–38,155; ESCO Corp., San Diego, CA: September 15, 1999.
TA–W–38,420; Apex Systems, Inc., Colorado Springs, CO: November 28, 1999.
TA–W–38,346; Flowserve Corp., Temecula, CA: November 15, 1999.
TA–W–38,325; Posies, Inc, Rockport, ME: November 3, 1999.
TA–W–38,326; Encore Textiles, Inc., Monroe, NC: October 31, 1999.
TA–W–38,704: Accuride Corp., Henderson, KY: February 1, 2000.
TA–W–38,608 & A; Wundies Enterprises, Inc., Wellsboro, PA: October 16, 2000 and Williamsport, PA: December 10, 2000.
TA–W–38,577; Link-Belt Construction Equipment, Lexington, KY: January 10, 2000.
TA–W–38,416; WEP. LLC, Formerly Williamette Electric Products, Inc., Portland, OR: November 22, 1999.
TA–W–38,348 & A, B, C, D; National Spinning Co., Inc., Washington, NC, Warsaw, NC, Whiteville, NC, Beulaville, NC and New York, NY: November 13, 1999.
TA–W–38,362; LTV Steel Co., Inc., Cleveland, OH: January 28, 2001.
TA–W–38,406; Philadelphia Gear Corp., King of Prussia, PA: November 27, 1999.
TA–W–38,620; TDK Electronics Corp., Peachtree City, GA: January 17, 2000.
TA–W–38,347; Cold Metal Products, Inc., Cold Rolling and Annealing Dept, New Britain, CT: November 9, 1999.
TA–W–38,387; Indigo Concepts, Vernon, CA: November 21, 1999.
TA–W–38,415; Remley and Co., Inc., Albion, NY: November 30, 1999.
TA–W–38,452; ARA Cutting LC, Miami, FL: December 6, 1999.
TA–W–38,463; Quality Veneer and Lumber, Aberdeen, WA: December 7, 1999.
TA–W–38,617 & A; Garan Manufacturing Corp., Carthage MS and Eupora, MS: January 19, 2000.
TA–W–38,446; Sherwood Dash USA, Rancho Cucamonga, CA: December 4, 1999.
TA–W–38,555 & A; Tee Jays Manufacturing Co., Inc., Plants 1, 5, 9, 4 and 15, Florence, AL and Plant #16, Elgin, AL: January 3, 2000.
TA–W–38,334; General Magnetic, Dallas, TX: November 6, 1999.
TA–W–38,643; Three G's, Mfg Co., Inc., Crossville, TN: January 29, 2000.
TA–W–38,279; Elmer's Products, Inc., Bainbridge, NY: October 23, 1999
TA–W–38,587; & A; VF Imagewear (West), Inc., Russellville, KY: and Lewisburg, KY: January 19, 2000.
TA–W–38,389 Woodbury Manufacturing, Inc., Woodbury, GA: November 20, 1999.
TA–W–38,611; Leach International, Buena Park, CA: January 16, 2000.
TA–W–38,655; Autoliv ASP, Inc., Autoliv American Components Including Leased Workers of Adecco Staffing Service, Ogden, UT. All workers of Autoliv ASP, Inc., Autoliv American Components, including leased workers of Adecco Staffing Service Ogden, UT engaged in employment related to the production of filter assemblies on or after January 13, 2000. All workers of Autoliv ASP, Inc., Autoliv American Components including leased workers of Adecco Staffing Service, Ogden, UT engaged in the production of lead wire assemblies are denied.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–AA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February and March, 2001.

In order for an affirmative determination to be madeé and a certification of eligibility to apply for NAFTA–TAA the following

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, or such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in ports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm of subdivision.

Negative Determination NAFTA–TAA

In each of the following cased the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04435; Bayer Corp., Consumer Care Div., Elkhart, IN
NAFTA–TAA–04462; Halliburton, Dresser Wayne Div., Salisbury, MD
NAFTA–TAA–04390; Carolina Narrow Fabric Co., Sparta, NC
NAFTA–TAA–04477; North Douglas Wood Products, Inc., Drain, OR
NAFTA–TAA–04322; Crown Pacific Limited Partnership, Coeur D'Alene, ID
NAFTA–TAA–04406; Sappi Fine Paper Co., North America, Muskegon, MI
NAFTA–TAA–04337; Potlatch Corp., Cloquet, MN
NAFTA–TAA–04398; Spreckels Sugar Co. Div. of Imperial Sugar Co., Tracy, CA
NAFTA–TAA–04352; LTV Steel Corp., Aliquippa Works, Tin Mill Dept., Aliquippa, PA
NAFTA–TAA–04327; Hagale Industries, Inc., Ava, MO
NAFTA–TAA–04370; Langston Corp., Cherry Hill, NJ
NAFTA–TAA–04428; Con-Vey Keystone, Inc., Rosenberg, OR
NAFTA–TAA–04415; Brown Packing Co., Inc., Little Rock, AR
NAFTA–TAA–04540; Rossville Chromatex, Plant 2, Div. of Culp, Inc., West Hazelton, PA
NAFTA–TAA–04323; Owens-Brockway, Glass Containers, Brockway, PA
NAFTA–TAA–04479; Budge Industries, Inc., Telford, PA
NAFTA–TAA–04467; Benel Manufacturing, Inc., Dunn, NC
NAFTA–TAA–04347; Owens-Brockway, Glass Containers, Lakeland, FL
NAFTA–TAA–04447; Commonwealth Aluminum, Lewisport, KY
NAFTA–TAA–04437; Bianca Sportswear, Inc., Copiague, NY
NAFTA–TAA–04414; Commerce Plastic, Inc., Commerce, GA
NAFTA–TAA–04476; Horix Manufacturing Co., McKees Rocks, PA
NAFTA–TAA–04608; Kazoo, Inc., San Antonio, TX
NAFTA–TAA–04471; Texprint (GA.), Inc., Macon, GA
NAFTA–TAA–04383; Saputo Cheese USA, Inc., Monroe, WI
NAFTA–TAA–04354; Akzo-Nobel Aerospace Coatings, Inc., Brownsville, TX
NAFTA–TAA–04552; Motorola Energy Systems Group, Harvard, IL

NAFTA–TAA–04487; Southdown, Inc., Wampum Cement Plant, Wampum, PA
NAFTA–TAA–045275; Flint Ink Corp., West St. Paul. MN
NAFTA–TAA094375; NTN–BCA Corp., Litiz, PA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

NAFTA–TAA–04485; SPX Corp., Service Soluctions, Jackson, MI
NAFTA–TAA–04492 & A; VF Imagewear (West), Inc., Todd Uniforms, Henning, TN and Ripley, TN

The investigation revealed that criteria (2) has not been met. Sales or production, or both, of such firm or subdivision did not decrease during the relevant period.

NAFTA–TAA–04452; Millennium Plastic Technologies, LLC, El Paso, TX

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04278; Encore Textiles, Inc., Monroe, NC: October 23, 1999.
NAFTA–TAA–04304; Flowserve Corp., Temecula, CA: November 15, 1999.
NAFTA–TAA–04346; WEP, LLC, Formerly Willamette Electric Products, Inc., Portland, OR: November 22, 1999.
NAFTA–TAA–04495; Johnson Electric Automotive, Inc., Brownsville, TX: January 26, 2000.
NAFTA–TAA–04506; Milacron Resin Abrasives, Inc., Carlisle, PA: January 26, 2000.
NAFTA–TAA–04321; Atlas Bag, Des Plaines, IL: November 2, 1999.
NAFTA–TAA–04475 & A; VF Imagewear (West), Inc., Russellville, KY and Lewisburg, KY: January 18, 2000.
NAFTA–TAA–04378; Eaton Corp., Mobile Hydraulics Div., Carol Stream, IL: November 30, 1999.
NAFTA–TAA–04518; Cardinal Brands, Inc., Eagle OPG–Z Bag Div., Smithfield, UTL: February 1, 2000.
NAFTA–TAA–04520; Borden Chemical, Inc., Forest Products Div., (Formerly The P&IP Div.), Kent, WA: January 22, 2001.
NAFTA–TAA–04511; Three G's Mfg. Co., Inc., Crossville, TN: January 29, 2000.
NAFTA–TAA–04474; Schumacher Electric Corp., Rensselaer, IN: January 17, 2000.
NAFTA–TAA–04283; Rockwell Automation, Department 255, Milwaukee, WI: November 1, 1999.
NAFTA–TAA–04496; Challenger Electric Co., Pageland, SC: January 16, 2000.
NAFTA–TAA–04525; C–Cor. Net Corp., State College, PA: February 6, 2000.
NAFTA–TAA–04504; Motorola Energy Systems Group, Lawrenceville, GA: January 26, 2000.
NAFTA–TAA–04494; Victor Equipment Co., Denton, TX: January 30, 2000.
NAFTA–TAA–04275; Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, UT; November 6, 1999.
NAFTA–TAA–04508; Monona Wire Corp., Wauzeka, WI: December 30, 1999.
NAFTA–TAA–04420 & A; Jefferson Apparel, Jefferson, NC and Maid Bess Corp., Salem, VA: December 18, 1999.
NAFTA–TAA–04529; International Paper, Shorewood Packaging Div., Cincinnati, OH: January 13, 2000.
NAFTA–TAA–04491; Raven Industries, Sioux Falls, SD: January 26, 2000.
NAFTA–TAA–04463; American Standard, Inc., Trenton, NJ: January 10, 2000.
NAFTA–TAA–04486; Owens and Hurst Lumber Co, Inc., Eureka, MT: January 17, 2000.
NAFTA–TAA–04579; Axiohm Transaction Solutions, IPB Div., Ithaca, NY: February 5, 2000.
NAFTA–TAA–04561; Dearborn Brass, Tyler, TX: February 4, 2000.
NAFTA–TAA–04526; Kay Tronic Corp., Including Leased Workers of Humanix Temporary Services, Spokane, WA: February 8, 2000.
NAFTA–TAA–04484; Hayes Lemmerz International, Automotive Brake Components, Homer, MI: January 19, 2000.

I hereby certify that the aforementioned determinations were issued during the month of February and March, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 26, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–8339 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,697]

BP Exploration, Alaska, Inc. Anchorage, AK: Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 20, 2001, in response to a petition filed by a company official on behalf of workers at BP Exploration, Alaska, Inc., Anchorage, Alaska.

The petition group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–38,673). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 12th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8333 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,705]

Empire Specialty Steel Corp., Dunkirk, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 20, 2001, in response to a petition filed by the United Steelworkers of America, Local 2693, on the same date on behalf of workers at Empire Specialty Steel Corp., Dunkirk, New York.

A certification applicable to the petitioning group of workers, employed at Al Tech Specialty Steel Corporation, Dunkirk, New York, was issued on June 18, 1999, and is currently in effect (TA–W–35,786). Empire Specialty Steel Corp. is a successor firm to Al Tech Specialty Steel Corporation and the certification applicable to workers of Al Tech Specialty Steel is also valid for workers of Empire Specialty Steel. The certification remains in effect until June 18, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8327 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,253]

Intercontinental Branded Apparel, Ellwood Avenue, Buffalo, NY; Amended Notice of Revised Determination on Reconsideration

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Revised Determination on Reconsideration on February 21, 2001, applicable to workers of Intercontinental Branded Apparel, Ellwood Avenue, Buffalo, New York. The notice was published in the **Federal Register** on March 2, 2001 (FR 66 13087).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's suit coats and sports coats. New findings show that there was a previous certification, TA–W–34,983, issued on October 21, 1998 for workers of Intercontinental Branded Apparel, Ellwood Avenue, Buffalo, New York who were engaged in employment related to the production of men's suit coats and sports coats. That certification expired October 21, 2000. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date for October 17, 1999 to October 22, 2000, for workers of the subject firm.

The amended notice applicable to TA–W–38,253 is hereby issued as follows:

All workers of Intercontinental Branded Apparel, Ellwood Avenue, Buffalo, New York who became totally or partially separated from employment on or after October 22, 2000 through February 21, 2003 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8329 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,664]

Island Screenworkers, Myrtle Beach, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 12, 2001 in response to a petition filed on the same date on behalf of workers at Island Screenworkers, Myrtle Beach, South Carolina.

The investigation revealed that the petition is invalid because it was not signed by three workers, a union representative, or a company official. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 12th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8332 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,423]

LTV Steel Co., Inc., Tin Mill Department, Aliquippa, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 11, 2000, in response to a worker petition which was filed by the United Steelworkers of America, Local 1211, on behalf of workers at LTV Steel Corporation, Tin Mill Department, Aliquippa, Pennsylvania. Petitioners indicated US Steel Group, Pittsburgh, Pennsylvania as the firm employing the workers. However, US Steel Group did not assume full ownership of the Aliquippa facility and therefore LTV Steel Co., Inc., remains the employing firm in this case.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–38,422). Consequently, further investigation in this case would serve no purpose, and the investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8331 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,822]

LTV Steel Company, Inc., Cleveland, OH; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 12, 2001 in response to a worker petition filed on behalf of workers at LTV Steel Company, Inc., Cleveland, Ohio.

An active certification covering the petitioning group of workers remains in effect (TA–W–38,362). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 21st day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8337 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,278, TA–W–36,278A]

Mannor Corporation, Bay Minette, Alabama and Mannor Corporation, New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 14, 1999, applicable to workers of Mannor Corporation, Bay Minette, Alabama. The notice was published in the **Federal Register** on August 11, 1999 (64 FR 43724).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of men's dress trousers. The company reports that the New York, New York location provided administrative,

executive and merchandising support services to Mannor Corporation's Bay Minette, Alabama location. The workers of the New York, New York location were inadvertently omitted from the certification. Accordingly, the Department is amending the certification to cover workers of Mannor Corporation, New York, New York.

The intent of the Department's certification is to include all workers of Mannor Corporation adversely affected by increased imports.

The amended notice applicable to TA–T–36,278 is hereby issued as follows:

All workers of Mannor Corporation, Bay Minette, Alabama (TA–W–36,278) and New York, New York (TA–W–36,278A) who became totally or partially separated from employment on or after May 10, 1998 through July 14, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 15th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8324 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,735]

Motorola Energy Systems Group, Harvard, IL; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply For Worker Adjustment Assistance issued by the Department on March 12, 2001, applicable to workers of the subject firm. The notice will soon be published in the **Federal Register.**

The Department, on its own motion, reviewed the worker certification. Findings show that on August 2, 2000, the Department issued a determination applicable to all workers of Motorola, Inc., Energy Systems Group, Harvard, Illinois (TA–W–37,850). Workers who became totally or partially separated from employment on or after June 10, 1999, through August 2, 2002, are eligible to apply for worker adjustment assistance program benefits.

Based on this new information, the Department is terminating the certification for petition number TA–W–38,850. Further coverage for workers under this certification would serve no purpose, and the certification has been terminated.

Signed at Washington, DC, this 20th day of March 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8323 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,174]

Paper, Calmenson & Company, Blades Division, Bucyrus, OH; Notice of Revised Determination on Reconsideration

On February 20, 2001, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 2, 2001 (66 FR 13088).

The initial investigation for workers producing ground engaging tools at Paper, Calmenson & Company, Blades Division, Bucyrus, Ohio, revealed that sales, production and employment all increased prior to the August 2000, sale of the firm to Bucyrus Blades, Inc. The plant ceased production in October 2000.

On reconsideration, the import data submitted to the Department show that a portion of the plant production was replaced by imports of articles like or directly competitive with those produced at the subject firm.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with ground engaging tools, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Paper, Calmenson & Company, Blades Division, Bucyrus, Ohio. In accordance with the provisions of the Act, I make the following certification:

All workers of Paper, Calmenson & Company, Blades Division, Bucyrus, Ohio, who became totally or partially separated from employment on or after September 22, 1999, through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 13th day of March, 2001.:

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8330 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,850]

Perfect Fit Industries, Richfield, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 19, 2001, in response to a worker petition which was filed by the company on behalf of its workers at Perfect Fit Industries, Richfield, North Carolina. The workers produce comforters, bedspreads, and bedding accessories.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 20th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8335 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 16, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 16, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 5th day of March, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 03/05/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,736	Perfect Fit Industries (Comp)	Tell City, IN	02/14/2001	Bed Pillows.
38,737	Hagale Industries, Inc (Comp)	Ardmore, OK	02/16/2001	Tailored Dress Slacks.
38,738	Hagale Industries, Inc (Comp)	Republic, MO	02/16/2001	Tailored Dress Slacks.
38,739	Allison Manufacturing Co (Comp)	Albemarle, NC	02/14/2001	Children's Apparel.
38,740	Eaton TCPD (UAW)	Marshall, MI	02/15/2001	Automotive Locking Differentials.
38,741	William Carter Co (Wrks)	Griffin, GA	02/19/2001	Children's Sleepwear.
38,742	Munro and Co., Inc. (Comp)	Monett, MO	02/14/2001	Children's Shoes.
38,743	Collis, Inc. (Wrks)	Elizabethtown, KY	02/15/2001	Metal Refrigerator Shelving.
38,744	Kearfott Guidance (Wrks)	Wayne, NJ	02/20/2001	Navigation Products.
38,745	Penridge Manufacturing (Comp)	Freeland, PA	02/12/2001	Men's and Ladies' Outerwear.
38,746	Danieli Corp. (Wrks)	Cranberry Twp., PA	02/01/2001	Engineering, Sales, ect Machinery.
38,747	Createc Corp. (Wrks)	Harrodsburg, KY	02/19/2001	Polystyrene Foam Packaging Material.
38,748	Thompson River Lumber (Wrks)	Thompson Falls, MT ...	02/09/2001	Dimension Lumber.
38,749	Guilford Mills, Inc. (Comp)	Herkimer, NY	02/19/2001	Jersey Knit Sheets.
38,750	Porex Technologies (Wrks)	College Point, NY	02/14/2001	Tips for Writing Instruments.
38,751	Dayton Tire (USWA)	Oklahoma City, OK	02/16/2001	Passenger Tires.
38,752	F.L. Smithe Machine Co (Comp)	Duncansville, PA	02/09/2001	Envelope Making Machinery.
38,753	Amphenol Corp. (IAMAW)	Sidney, NY	02/09/2001	Electrical & Environmental Connectors.
38,754	West Point Stevens (UNITE)	Roanoke Rapids, NC ..	02/15/2001	Weaving—Towels, Bath Mats.
38,755	Jewel Fashions, Inc (Wrks)	Jersey City, NJ	02/15/2001	Coats.
38,756	Motor Products Owosso (UAW)	Owosso, MI	02/12/2001	Fractional Horsepower Motors.
38,757	Gorge Lumber Co., Inc. (Comp)	Portland, OR	02/22/2001	Lumber Boards.
38,758	PerkinElmer Optoelectroni (UAW)	St. Louis, MO	02/22/2001	Photocell Pellets, Silicon Wafters.
38,759	GST Steel Co (UAW)	Kansas City, MO	02/12/2001	Steel Rod and Steel Grinding Balls.
38,760	Biddeford Textile Corp (Wrks)	Biddeford, ME	02/22/2001	Electric Blankets.
36,761	Snuffy's Pet Products (Comp)	McConnellsburg, PA ...	02/13/2001	Rawhide Dog Bones.
38,762	Pridecraft Enterprises (Comp)	Enterprise, AL	02/12/2001	Precaution Gowns, Hamper Bags.
38,763	Donora Sportswear Co (UNITE)	Donora, PA	02/09/2001	Mens' and Ladies' Jackets.
38,764	Brown Wooten (Wrks)	Mt. Airy, NC	02/12/2001	Socks.
38,765	Burlington Industries (Wrks)	Monticello, AR	02/15/2001	Area Floor Rugs.
38,766	Spec Cast (Wrks)	Dyersville, IA	02/13/2001	Die Cast Machine.
38,767	Ohio Art Co (The) (Comp)	Bryan, OH	01/29/2001	Etch-A-Sketch Asembly.
38,768	Loogootee Manufacturing (Comp)	Loogootee, IN	02/14/2001	Outdoors Extension Cords.
38,769	Deltrol Corp (IAM)	Milwaukee, WI	02/14/2001	Bushings, Clamps, Parts of Auto Shocks.
38,770	Sky Jack (Wrks)	Wathewa, KS	02/13/2001	Repair and Rebuild Machinery.
38,771	Elkins Hardwood Dimension (Comp)	Elkins, WV	02/09/2001	Wooden Bases used on Office Files.
38,772	Hedstrom Corp (Wrks)	Alma, GA	02/09/2001	Trampoline Pads.
38,773	Day and Zimmermann, Inc. (Wrks)	Parsons, KS	02/12/2001	Munitions.
38,774	Vera Sportswear (Comp)	Charlestown, MA	02/05/2001	Ladies' Garments.
38,775	Q and M Manufacturing (Wrks)	Cheboygan, MI	02/13/2001	Engine Stampings.
38,776	Smith and Nephew, Inc (Comp)	Charlotte, NC	02/13/2001	Synthetic Orthopedic Cast Tape.
38,777	Steele Apparel, Inc. (Comp)	Kilmichael, MS	02/09/2001	Ladies Career Apparel.
38,778	Capitol Manufacturing Co (Comp)	Fayetteville, NC	02/19/2001	Wooden Picture Frame Moulding.
38,779	Maxxim Medical, Inc. (Wrks)	Columbus, MS	02/05/2001	Surgical Drapes, Sterile Paks.
38,780	Tecumseh Products Co (IBEW)	Somerset, KY	02/13/2001	Compressor Pumps for Air Conditioning.
38,781	Calhoun Apparel, Inc (Comp)	Calhoun City, MS	02/12/2001	Men & Ladies' Career Apparel.
38,782	Republic Technologies (Wrks)	Canton, OH	02/11/2001	Steel Bars.
38,783	O–Z Gedney (Comp)	Pittston, PA	02/21/2001	Electrical Fittings.
38,784	Joseph L. Schlesinger (Wrks)	Ridgefield, NJ	02/08/2001	Schiffli Machines.
38,785	Vesuvius USA (USWA)	Tyler, TX	02/13/2001	Reproctories, Shrouds, Nozzles.
38,786	Wing Industries (Wrks)	Greenville, TX	02/07/2001	Doors.
38,787	Medley Co. Cedar, Inc. (Comp)	Pierce, ID	02/23/2001	Split Rail Fencing and Cedar Shakes.
38,788	Cabinet Works LLC (IUE)	Jefferson City, TN	02/19/2001	TV Cabinets.
38,789	Dietrich Milk Products (IBT)	Middlebury Cnt, PA	02/22/2001	Whole Milk Powder, Lactose Powder.

[FR Doc. 01–8338 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,650]

Rayovac Corporation, Wonewoc Plant, Wonewoc, WI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 5, 2001, in response to a worker petition which was filed by the company on behalf of its workers at Rayovac Corporation, Wonewoc Plant, located in Wonewoc, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 9th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8326 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,568]

Security Chain Company, Clackamas, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 22, 2001, in response to a worker petition which was filed on behalf of its workers at Security Chain Company, located in Clackamas, Oregon.

The petitioners have requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 20th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8336 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[General Administration Letter No. 1–01]

Office of Workforce Services, Foreign Labor Certification; General Administration Letter Clarifying Procedural Guidance Regarding Worker Rejection and Termination From H–2A Temporary, Alien Agricultural Employment

The Employment and Training Administration interprets Federal law requirements pertaining to foreign labor certification as part of its role in the administration of the H–2A temporary alien agricultural labor certification program. These interpretations are issued in General Administration Letters (GAL's) to the State Employment Security Agencies. The GAL described below is published in the **Federal Register** in order to inform the public.

GAL No. 1–01

GAL No. 1–01, provides policy clarification and procedural guidance for the notification process between employers and the State Employment Security Agency (SESA) regarding worker rejection and termination from H–2A temporary agricultural employment. It also provides answers to questions raised by State Employment Security Agencies and other interested parties.

Dated: March 22, 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor.

Attachment

Department of Labor

Employment and Training Administration

Classification: H–2A.
Correspondence Symbol: OWS.
Date: October 30, 2000.
DIRECTIVE: General Administrative Letter No. 1–01
TO: All State Employment Security Agencies
FROM: Wendy L. McConnell for Lenita Jacobs-Simmons, Deputy Assistant Secretary
SUBJECT: Notification to State Office Regarding Worker Rejection or Termination from H–2A Temporary Agricultural Employment

1. *Purpose.* To provide policy clarification and procedural guidance for the notification process between employers and the State Employment Security Agency (SESA) regarding worker rejection and termination from H–2A temporary agricultural employment.

2. *References.* 20 CFR part 655, Subpart B and 20 CFR 655.103

3. *Background.* The H–2A Regulations at CFR 655.103 require employers to notify the designated SESA Office of any voluntary or involuntary worker departure from job site. Issues have arisen with regard to the timing of employer notification to the SESA when the workers leave employment.

4. *Policy Clarification/Procedural Guidance.* In keeping with the long standing interpretation by INS, abandonment of employment by a worker requires employer notification in writing to the SESA no later than forty-eight (48) hours after the employer becomes aware of abandonment. In the event of the employer terminating worker(s) for cause, the employer will notify the SESA in writing of such termination no later than forty-eight (48) hours.

5. *Action Required.* SESAs are strongly encouraged to adhere to the established procedure and to communicate to the employer community of their corresponding responsibility for the timely notification to the SESA central office of worker abandonment or termination from H–2A temporary agricultural employment.

6. *Inquiries.* H–2A employer notification procedure questions should be directed to Charlene Giles at (202) 693–2950 (3–2950).

Rescissions: None.
Expiration Date: October 31, 2003.

[FR Doc. 01–8343 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4609]

Cooper Standard Automotive, Rocky Mount, NC; Notice of Termination of investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on March 5, 2001, in response to a petition filed on behalf of workers at Cooper Standard Automotive, Rocky Mount, North Carolina.

The petitioner has withdrawn the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 15th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8325 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4610]

Perfect Fit Industries, Richfield, NC; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act and in accordance with section 250(a), subchapter D, chapter 2, Title II of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on March 19, 2001, in response to a worker petition which was filed by the company on behalf of its workers at Perfect Fit Industries, Richfield, North Carolina. The workers produce comforters, bedspreads, and bedding accessories.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 20th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–8322 Filed 4–4–01; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

[Dockets No. 72–02, 72–16]

Virginia Electric and Power Company; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.48 to Virginia Electric and Power Company (Dominion). The requested exemption would allow Dominion to implement the amended 10 CFR 72.48 requirements on June 25, 2001, for the Independent Spent Fuel Storage Installations (ISFSI) at the Surry Power Station in Surry County, Virginia and at the North Anna Power Station in Louisa County, Virginia.

Environmental Assessment (EA)

Identification of Proposed Action: By letter dated March 2, 2001, Dominion requested a scheduler exemption from the implementation date of April 5, 2001, for the revised 10 CFR 72.48. Dominion plans to implement its revised 10 CFR 50.59 and 10 CFR 72.48 programs simultaneously. The planned date for implementing the revised 10 CFR 50.59 requirements is June 25, 2001.

Need for Proposed Action: The applicant wants the implementation date of 10 CFR 50.59 and 10 CFR 72.48 to coincide. The applicant stated in the March 2, 2001, submittal that one common process is utilized to administer and control changes under both the 10 CFR 50.59 and 10 CFR 72.48 at both facilities. In addition, the same individuals, whom are qualified on both rules, perform the required evaluations for both change processes, and thus a single point in time provides for a more orderly transition to the amended rules.

Environmental Impacts of the Proposed Action: There are no significant environmental impacts associated with the proposed action. The new revision of 10 CFR 72.48 is considered less restrictive than the current requirements, with the exception of the additional reporting requirements. Continued implementation of the existing 10 CFR 72.48 until June 25, 2001, is acceptable to the NRC as stated in Regulatory Issues Summary 2001–03 which states that it is the NRC's view that both the old rule and the new rule provide an acceptable level of safety. Extending the current requirements until June 25, 2001, has no significant impact on the environment.

Alternative to the Proposed Action: Since there are no environmental impacts associated with the proposed action, alternatives are not evaluated other than the no action alternative. The alternative to the proposed action would be to deny approval of the scheduler exemption and, therefore, not allow Dominion to implement the revised 10 CFR 72.48 requirements on the desired date, June 25, 2001. However, the environmental impacts of the proposed action and the alternative would be the same.

Agencies and Persons Consulted: On March 22, 2001, Mr. Les Foldese of the Virginia Department of Health, Radiological Health Programs was contacted regarding the environmental assessment for the proposed action and had no comment.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based on the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.48, so that Dominion may implement the amended requirements on June 25, 2001, will not significantly impact the quality of human environment. Accordingly, the Commission has determined that an environmental impact statement for the proposed action is not necessary.

The request for exemption was docketed under 10 CFR part 72, Dockets 72–02 and 72–16. For further details with respect to this action, see the exemption request dated March 2, 2001, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland 20852, or from the publicly available records component of NRC's agencywide documents access and management system (ADAMS). ADAMS is accessible from the NRC web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 29th day of March 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–8399 Filed 4–4–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44123; File No. SR–Amex–01–02)]

Self-Regulatory Organizations; the American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change To Amend Commentary .02 to Amex Rule 126(g) ''Precedence of Bids and Offers''

March 28, 2001.

I. Introduction and Background

On February 5, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 therunder.[2] The proposed rule change would amend Commentary .02 to Amex Rule 126(g) ''Precedence of Bids and Offers'' to reduce the number of shares that may be crossed on an agency basis from 25,000 shares to 5,000 shares. Notice of the proposed rule change was published in the **Federal Register** on February 21,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

2001.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Commentary .02 to Amex Rule 126(g) ''Precedence of Bids and Offers'' to reduce the number of shares that may be crossed on an agency basis from 25,000 shares to 5,000 shares. Amex Rule 126 delineates priority and precedence of bids and offers on the Exchange floor, and generally provides that bids and offers are entitled to precedence based on time, with members bidding at the highest price (offering at the lowest price) entitled to be on parity and divide executions at their price after a previous sale removes all bids and offers from the floor. Commentary .02 to Amex Rule 126(g) applies only to agency crosses (''clean crosses'') to buy and sell orders of 25,000 shares or more (that is, both orders of accounts of non-members). This commentary provides that a member may cross those orders at a price at or within the prevailing quotation, with such orders entitled to priority at the cross price over previously entered bids and offers. When crossing these orders, the member must follow the crossing procedures of Amex Rule 151 ''On Order' Transactions'' and another member may trade with either the bid or offer side of the cross to provide price improvement to all or part of the bid or offer. In addition, the member must trade with all other market interest having time priority at that price before trading with any part of the cross transaction.

III. Discussion

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange. The Commission finds that the proposal is consistent with the requirements of Section 6(b) of the Act[4] in general, and particularly furthers the objectives of Section 6(b)(5) of the Act,[5] in that it is designed to promote just and equitable principles of trade and further the protection of investors and the public interest. The Commission believes that reducing the number of shares that may be crossed on an agency basis from 25,000 shares to 5,000 shares is reasonable, and that such a reduction may help to facilitate the transition from pricing equities in fractions to pricing in decimals. Additionally, the Commission believes such a reduction may enhance competition among markets in the execution of agency crosses, resulting in better efficiency and prices for investors.

IV. Conclusion

For the above reasons, the Commission find that the proposed rule change is consistent with the provisions of the Act, in general, and with Section 6(b)(5)[6] in particular.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change SR–Amex–01–02) be, and hereby is, approved.[8]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8348 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44122; File No. SR-Amex-01–01]

Self-Regulatory Organizations; the American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Relating to Amendments to Commentary .01 to Amex Rule 126(g) ''Precedence of Bids and Offers''

March 28, 2001.

I. Introduction

On January 18, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would amend Commentary .01 to Amex Rule 126(g) ''Precedence of Bids and Offers'' to reduce from 25,000 shares to 5,000 shares the minimum size block cross that will be permitted to establish size precedence. On January 23, 2001, the Amex amended the proposal at the Commission's request to implement the proposed rule change on a one-year pilot program basis.[3] Notice of the proposed rule change, as amended, was published for comment in the **Federal Register** on February 21, 2001.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

In 1989, the Commission approved Commentary .01 to Amex Rule 126(g) ''Precedence of Bids and Offers,'' which provides that orders to cross 25,00 shares or more will be permitted to establish precedence over other bids and offers.[5] Procedures under Amex Rule 126(g), Commentary .01 permits size precedence for crosses of 25,000 shares or more to be established when no other order has price or time priority. When an order has time priority, a sale removing all bids and offers from the floor must occur before parity is established, and the order to cross can be accorded precedence based on size. Thus, to obtain precedence, orders to cross 25,000 shares or more must have been presented at the specialists' post when the sale removing all bids and offers from the floor had taken place. Once size precedence has been established, the broker handling the cross must then bid and offer the security in accordance with Amex Rule 152 ''Taking or Supplying Stock to Fill Customer's Order.''

The Exchange proposes to reduce from 25,000 shares to 5,000 shares the minimum size block cross that will be permitted to establish size precedence. According to the Amex, the block cross procedures under Amex Rule 126(g) have facilitated executions of large orders on the Amex as one transaction at a single price without such orders losing shares to other orders in the trading crowd or on the specialist's book due to Exchange parity rules. The Amex believes the proposed rule change will reduce member firms' incentive to route such orders to regional exchanges or the third market in order to avoid losing an excessive number of shares to other orders under existing Amex parity rules. Additionally, the Exchange believes that, with the expansion of decimal pricing in equities, and with a minimum price variation of one penny, it will be less expensive for members to break up

[3] Securities Exchange Act Release No. 43950 (February 12, 2001), 66 FR 11074.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2)

[8] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* January 23, 2001 letter from Michael Cavalier, Associate General Counsel, Legal and Regulatory, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC.

[4] Securities Exchange Act Release No. 43954 (February 12, 2001), 66 FR 11073.

[5] *See* Securities Exchange Act Release No. 26550 (February 15, 1989), 54 FR 7655 (February 22, 1989) (SR–Amex–88–30).

proposed block crosses on the Amex floor, which may result in such crosses being routed to markets in which size precedence is not addressed in the manner required by Amex rules.

III. Discussion

The Commission has reviewed carefully the proposed rule change, as amended, and finds that it is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[6] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)[7] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission believes that a reduction from 25,000 shares to 5,000 shares in the minimum size block cross that will be permitted to establish size precedence is reasonable, in view of the reduction in the minimum price variation resulting from the transition from fractional to decimal pricing. The Commission notes that the provision that the broker handling the cross must bid and offer for the customer side of the proposed transaction under Amex Rule 152 ensures that the customer does not lose an opportunity for price improvement.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change, as amended, is consistent with the provisions of the Act, in general, and with Section 6(b)(5)[8] in particular.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–AMEX–01–01), as amended, be and hereby is approved on a pilot basis through March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8350 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44101; File No. SR–BSE–00–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Minimum Equity Requirements for Derivative-Based Products

March 26, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 3, 2001, the Boston Stock Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Item I, II and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend the Interpretations and Policies of Section 6, Limitations on Exchange Liability, of Chapter XXIV, Portfolio Depositary Receipts, of the Rules of the Board of Governors to reduce from $1,000,000 to $200,000 the minimum equity requirement for firms trading derivative-based products if the firm arranges to clear its trades through another forum and obtains Exchange approval to do so. Below is the text of the proposed rule change. New text is in *italic.*

* * * * *

Chapter XXIV

Portfolio Depositary Receipts

Limitation on Exchange Liability

Sec. 6

** * * Interpretation and Policies*

** * * 03 For derivative based trading products, the minimum equity requirement, in certain limited circumstances, will be reduced from $1,000,000 to $200,000. The limited circumstances under which the equity requirement will be reduced must be based on clearing arrangements with another forum, through which a BSE member firm will settle their derivative product trades executed on the floor of the Exchange through a separate, non BSECC-member, clearing center. All such arrangements must be fully disclosed to, and approved by, the Exchange, prior to the reduction of the equity requirement. The Early Warning Alert provisions set forth in Chapter XXII, Sections 2(f)(ii) and (iii), and the caretaker provision set forth in Chapter XXII, Section 2(f)(iv) shall apply.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to add Paragraph .03 to the Interpretations and Policies of Chapter XXIV, Portfolio Depositary Receipts, Section 6, Limitation on Exchange Liability, of the Rules of the Board of Governors to reduce from $1,000,000 to $200,000 the minimum equity requirement for firms trading derivative based products if the firm arranges to clear its derivative based products trades through another forum, (''XBSE'') and obtains Exchange approval to do so. The rationale for this is that the risk to the Exchange is substantially reduced if a member firm arranges pre-approved procedures for derivative-based products to settle through another, non-Boston Stock Exchange Clearing Corporation clearing institution. This policy would only apply in the limited product area of Portfolio Depositary Receipts, as is made clear in Section 1 of the relevant Chapter (XXIV), entitled ''*Applicability,*'' which states that ''[t]his Chapter is applicable only to Portfolio Depositary Receipts.''

2. Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[3] in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b)(5).

settling, processing information with respect to, and facilitating transactions in securities; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–00–22 and should be submitted by April 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8349 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44104; File No. SR–CBOE–00–47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendments No. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to Changes to Its Rule Governing the Retail Automatic Execution System (''RAES'')

March 26, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 8, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On February 27, 2001, the CBOE filed Amendment No. 1 to the proposed rule change.[3] On March 23, 2001, the CBOE filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change and Amendments No. 1 and 2.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to simplify Rule 6.8 (''Rule'' or ''RAES Rule'') by ordering the provisions of the RAES Rule in a more organized fashion and by adopting new rules and procedures to establish means of assuring better compliance with the RAES Rule.

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in brackets.

* * * * *

CHAPTER VI

Doing Business on the Exchange

Section A: General

* * * * *

RAES Operations

* * * * *

Rule 6.8.

This Rule governs RAES operations in all classes of options, except to the extent otherwise expressly provided in this or other Rules in respect of specified classes of options. (a)[(i)] Firms on the Exchange's Order Routing System (''ORS'') will automatically be on the Exchange's Retail Automatic Execution System (''RAES'') for purposes of routing *eligible orders* [small public customer market or marketable limit orders] into the RAES system.

(b) Definitions. For purposes of this Rule 6.8:

(i) The term ''RAES'' means the automated execution system feature of ORS that is owned and operated by the Exchange and that provides automated order execution and reporting services for option.

(ii) The term ''User'' means any person or firm that obtains access to RAES through an Order Entry Firm.

(iii) The term ''Order Entry Firm'' means a member organization of the Exchange that is able to route orders to the Exchange's ORS.

(c) Eligible Orders.

An order must meet the following criteria to be eligible for RAES:

(i) The order must be a market order or a marketable limit order. A marketable limit order is a limit order where the specified price at which to sell is below or at the

---

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Timothy Thompson, Assistant General Counsel, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated February 23, 2001 (''Amendment No. 1''). In Amendment No. 1, the CBOE amended its proposed rule language to eliminate: (1) The proposed requirement that Order Entry Firms execute an application and agreement with the Exchange; (2) the proposed language establishing a presumption that the Exchange's prohibition against unbundling would be violated when multiple orders were entered within a 15-second period; (3) the proposed prohibition against entering orders via RAES to perform a market-making function; and (4) the proposed prohibition against manipulation, which the CBOE indicated is covered by other applicable rules and regulations. Instead, the CBOE proposed to adopt a prohibition against the entry of multiple orders in a call class and/or put class for the same option issue within a 15-second period by an account or accounts for the same beneficial owner. The CBOE also made minor technical corrections to the proposed rule text. These provisions are discussed more fully in Sections II and IV below.

[4] *See* letter from Timothy Thompson, Assistant General Counsel, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated March 22, 2001 (''Amendment No. 2''). In Amendment No. 2, the CBOE made minor technical changes to its proposed rule text. The CBOE also requested accelerated approval of the instant proposal and stated that the Commission has already approved similar proposals by other options exchanges.

current bid, or if to buy is above or at the current offer.

(ii) Orders are not eligible for execution on the RAES system if they are orders for accounts in which a member, non-member participant in a joint-venture with a member, or any non-member broker-dealer has an interest.

(iii) Those orders which are eligible for routing to RAES may be subject to such contingencies as the appropriate Floor Procedure Committee (''FPC'') shall approve.

(iv) For purposes of this Rule, the term ''broker-dealer'' includes the term ''foreign broker-dealer'' as defined in Rule 1.1(xx).

[Public customer orders are orders for accounts other than accounts in which a member, non-member participant in a joint-venture with a member, or any non-member broker-dealer (including a foreign-broker as defined in Rule 1.1 (xx)) has an interest.]

(*v*) The appropriate [Floor Procedure Committee (''FPC'')] *FPC* shall determine the size of orders eligible for entry into RAES [in accordance with paragraph (e) of this Rule]. Eligible orders must be for *one hundred* [seventy-five] or fewer contracts on series placed on the system. The appropriate FPC, in its discretion, may determine to restrict the size and kind of eligible orders, including but not limited to, lowering contract limits *on particular option issues.* Announcements concerning the size and kind of eligible orders will be made promptly as these are adjusted. The appropriate FPC will have discretion to place on the system such series in classes of options subject to its jurisdiction as it determines is appropriate.

(*vi)* Notwithstanding the provisions of *sub-paragraph (c)(v)* [paragraph (e) of this Rule], the appropriate FPC may increase the size or orders in one or more classes of multiply-traded options eligible for entry into RAES to the extent necessary to match the size of orders in options of the same class or classes eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.

(*vii*) For purposes of determining *whether an order meets the maximum size requirement set forth in sub-paragraph (c)(v)* [what a small customer order is], a customer's order cannot be split up such that its parts are eligible for entry into RAES. [Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate will be given access to RAES from terminals at their booths on the floor.]

(d) Execution on RAES.

[(ii)] *(i)* When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system, except as otherwise provided in [Interpretation and Policy .02 under] this Rule 6.8 *and the Interpretations to this Rule* [in respect of multiply-traded options]. A buy order will pay the offer, a sell order will sell at the bid. Marketable limit orders will not be executed to sell for less or buy for more than the specified price, but the order can be executed to sell for a higher price or buy for a lower price. However, if the order's limit price is under $3, RAES will execute the order only if the necessary bid or offer is ½ point or less from the limit price. If the order's limit price is $3 or more, RAES will execute the order only if the necessary bid or offer is one dollar or less from the limit price.

(ii) A Market-Maker logged on to participate in RAES (a ''Participating Market-Maker'') will be designated as contra-broker on the trade.

(iii) A trade executed on RAES at an erroneous quote should be treated as a trade reported at an erroneous price and adjusted to reflect the accurate market after receiving a Floor Official's approval.

[(b)] *(iv)* [It is possible that the prevailing market bid or offer may be equal to the best bid or offer on the Exchange's book. In those instances, a RAES order will be executed against the order in the book. In the event, the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating market-makers at the same price at which the rest of the order was executed.] When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange and is for a size less than the RAES order eligibility size for that class, such fact shall be denoted in the Exchange's disseminated quote by a ''Book Indicator''. It is possible that the best bid or offer on the Exchange's book constitutes the prevailing market bid or offer. In those instances, a RAES order will be executed against the order in the book. In the event, the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating market-makers at the same price at which the initial portion of the order was executed up to an amount prescribed by the appropriate Floor Procedure Committee on a class-by-class basis (the ''Book Price Commitment Quantity''). Any remaining balance thereafter shall be [(i)] (*A*) routed to the crowd PAR terminal if Autoquote is not in effect for that series; [(ii)](*B*) assigned to participating market-makers at the Autoquote price if Autoquote constitutes the new prevailing market bid or offer; or [(iii)] (*C*) executed against any order in the book that constitutes the new prevailing market bid or offer with the balance of the RAES order being assigned to participating market-makers at that price up to the Book Price Commitment Quantity. Any additional remaining balance of a RAES order shall be handled in accordance with [(ii)](*B*) or [(iii)](*C*) of this paragraph.[5]

[(c)] *(v)* Notwithstanding *sub*-paragraph *(d)(iv)* [(b)], for a six month pilot program ending August 21, 2001, for any series of options where the bid or offer generated by the Exchange's Autoquote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's Autoquote system) crosses or locks the Exchange's best bid or offer as established by an order in the Exchange's customer limit order book, orders in RAES for options of that series will not be automatically executed but instead will be rerouted on ORS to the crowd PAR terminal or to another location in the event of system problems or contrary firm routing instructions.

(e) Order Entry Firms. Order Entry Firms shall:

(i) Comply with all applicable CBOE options trading rules and procedures;

(ii) Provide written notice to all Users regarding the proper use of RAES;

(iii) Neither enter nor permit the entry of multiple orders in a call class and/or put class

for the same option issue within any 15-second period for an account or accounts of the same beneficial owner.

Violations of this rule may be referred to the Business Conduct Committee for appropriate disciplinary action.

(f)[(d)] Participating Market-Makers.

(i) Participating Market-Makers will be assigned trades by RAES [on a rotating basis, with the first Market-Maker selected at random from the list of Participating Market-Makers,] in accordance with procedures adopted by the appropriate FPC *pursuant to Interpretation .06 of this Rule.* [Participating Market-Makers are obligated to trade at the displayed market quote at the time an order enters the system.] Exchange rules shall not apply to the extent that they are inconsistent with these terms, including but not limited to Rule 6.45 (Priority of Bids and Offers), Rule 6.43 (Manner of Bidding and Offering), and Rule 8.1 (Market-Maker Defined). Applicable position and exercise limits will remain in effect for RAES transactions. Transactions executed through RAES orders will count towards fulfillment of the in-person requirement of Rule 8.7.

(ii) *To the extent possible, a* [A]ll participants will be informed of trades immediately upon execution. A fill report may be generated to the firm at the firm's point of entry into the system (i.e., either its branch office or floor booth), and a trade acknowledgement ticket (''TAT'') will be made available to Participating Market-Makers in a manner prescribed by the Exchange. [A log for all transactions will be available throughout the day for review by participants. Audit reports will be sent to the Exchange's Regulatory Services Division.]

[(e) Eligible orders must be for fifty or fewer contracts on series placed on the system, except that eligible orders for interest rate options or for options on the S&P 500 Index, the Nasdaq 100 Index or the Dow Jones Industrial Average must be for one hundred or fewer contracts on series placed on the system. The appropriate FPC, in its discretion, may determine to restrict the size and kind of eligible orders, including but not limited to, lowering contract limits. Announcements concerning the size and kind of eligible orders will be made promptly as these are adjusted. The appropriate FPC will have discretion to place on the system such series in classes of options subject to its jurisdiction as it determines is appropriate.]

[(f)] *(g)* Each day the system is available, a post director or his representative will start the system, after quotes in the eligible series have been updated following *the* opening *of the option class* [rotation]. If the system is or becomes unavailable, for any reason, eligible orders will be handled as they are handled currently in non-eligible option series.

[(g) A marketable limit order is a limit order where the specified price at which to sell is below or at the current bid, or if to buy is above or at the current offer. Marketable limit orders will not be executed to sell for less or buy for more than the specified price, but the order can be executed to sell for a higher price or buy for a lower price. However, if the order's limit price is under $3, RAES will execute the order only if the necessary bid or offer is 1/2 point or less from the limit price. If the order's limit price is $3 or more, RAES will execute the order only if the necessary bid or offer is one dollar or less from the limit price.]

* * * Interpretations and Policies

.01 [*Reserved.*] [Notwithstanding the provisions of paragraph (e) of this Rule, the appropriate FPC may increase the size or orders in one or more classes of multiply-traded options eligible for entry into RAES to the extent necessary to match the size of orders in options of the same class or classes eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.]

.02–.08 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. *Background.* RAES has been in operation on the Exchange since the Commission approved it as a pilot program for Standard & Poor's 100 Index Options (''OEX'') in 1984.[6] Since its inception, RAES was designed to provide automatic execution of non-broker-dealer customer orders at the Exchange's displayed bid and ask prices[7] for market or marketable limit orders of ten contracts or fewer. Recently, in response to requests of its customers and based upon the popularity of the RAES system with these customers, the Exchange amended its RAES Rule to allow for the appropriate Floor Procedure Committee to provide on an issue-by-issue basis for orders of up to one hundred contracts to be executed on RAES.[8]

b. *Definitions.* The Exchange proposes to add a number of definitions in proposed paragraph (b) of the RAES Rule so that the meaning of each of these terms is clear to members and users of RAES. The term ''RAES'' is defined as the automated execution system feature of the Order Routing System (''ORS'') that is owned and operated by the Exchange and that provides automated execution and reporting services for options.

The terms ''User'' means any person or firm that obtains access to RAES through an Order Entry Firm.

The terms ''Order Entry Firm'' means a member organization of the Exchange that is able to route orders to the Exchange's ORS.

c. *Eligible Orders.* Proposed paragraph (c) of the RAES Rule includes all of the provisions of current RAES Rule which concern the eligibility of orders to be executed on RAES. Many of these provisions are scattered throughout the current version of the Rule and are now proposed to be moved to paragraph (c).

d. *Execution on RAES.* Proposed paragraph (d) of the RAES Rule includes all the provisions of the RAES Rule which concern the execution of RAES orders. The proposed changes merely consist of reorganizing and renumbering current provisions of the Rule.

e. *Order Entry Firms.* The Exchange proposes to add new paragraph (e) to the RAES Rule which will provide that Order Entry Firms, as defined in paragraph (b), agree to: (1) Comply with all applicable CBOE options trading rules and procedures; (2) provide written notice to all Users regarding the proper use of RAES; and (3) neither enter nor permit the entry of multiple orders in a call class and/or put class for the same option issue within any 15-second period for an account or accounts of the same beneficial owner. The Exchange determined to make these changes to protect investors and other market participants from the potential negative consequences that might result from Order Entry Firms engaging in prohibited conduct. The Exchange further wanted to ensure that the member that provides access to RAES to its customers is ultimately responsible for the orders that are entered by its customers. The Exchange believes that these safeguards are more important than ever now that a growing number of members have direct access to the Exchange's ORS and to RAES.

The Exchange has otherwise renumbered the remaining paragraphs of the Rule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b)[9] of the Act in general, and furthers the objectives of section 6(b)(5)[10] of the Act in particular, in that it will promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE requests that the proposed rule change and Amendments No. 1 and 2 be given accelerated effectiveness pursuant to section 19(b)(2)[11] of the Act. The Exchange believes that because the proposed rule change is essentially identical to rules of other options exchanges that the Commission has already noticed for public comment and recently approved,[12] the proposed rule change raises no new issues. Furthermore, the CBOE believes that

[6] *See* Securities Exchange Act Release No. 21549 (December 7, 1984), 49 FR 49195 (December 18, 1984) (approving File No. SR–CBOE–84–30).

[7] If the current best bid or offer, as such bids or offers are identified on RAES, is being quoted on another exchange for a particular series, RAES will either reject the order for manual handling or execute the order automatically at the current best bid or offer if the current best bid or offer is not more than a designated number of ticks better than the CBOE bid or offer. The appropriate Floor Procedure Committee of the Exchange determines the number of ticks better than CBOE best bid or offer at which the current best bid or offer may be in order for RAES order to be executed automatically at the current best bid or offer price.

[8] *See* Securities Exchange Act Release No. 44008 (February 27, 2001), 66 FR 13599 (March 6, 2001) (approving File No. SR–CBOE–01–03).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78(b)(2).

[12] *See, e.g.,* Securities Exchange Act Release No. 43971 (February 15, 2001), 66 FR 11344 (February 23, 2001) (order partially approving File No. SR–PCX–00–05).

accelerated approval of the proposed rule change filing will ensure that the Exchange's market makers are not placed at a competitive disadvantage to those market makers who are trading at an exchange that currently has a similar prohibition in place. The CBOE further believes that acceleration of the proposed rule change will ensure that the Exchange's public customers can enjoy the benefits that the Exchange expects to be derived from the proposed rule at the earliest possible time.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–00–47 and should be submitted by April 26, 2001.

V. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change and Amendments No. 1 and 2 Thereto

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b).[13] Specifically, the Commission finds that approval of the proposed rule change is consistent with section 6(b)(5)[14] of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Commission finds that the Exchange's proposed provisions under paragraph (b) of the RAES Rule, codifying and defining the terms ''RAES,'' ''User,'' and ''Order Entry Firm,'' will help provide RAES participants with more clarity and guidance and a better understanding of the use of these terms as used in the CBOE's rules governing RAES.

The Commission also finds that the Exchange's proposed paragraph (c) of the RAES Rule, entitled ''Eligible Orders,'' and proposed paragraph (d) of the RAES Rule, entitled ''Execution on RAES,'' will help organize various scattered provisions throughout the CBOE's RAES Rule regarding the eligibility of orders and the execution of these orders through RAES. The Commission believes that this reorganization will better clarify the RAES Rules of Order Entry Firms and Users of RAES.

Furthermore, the CBOE proposes to add new paragraph (e) to the RAES Rule to specify that Order Entry Firms comply with certain requirements. First, Order Entry Firms must comply with all applicable CBOE options trading rules and procedures. Second, Order Entry Firms must provide written notice to all Users regarding the proper use of RAES. Finally, Order Entry Firms must neither enter nor permit the entry of multiple orders in a call class and/or put class for the same option issue within any 15-second period for an account or accounts of the same beneficial owner.

The Commission finds that paragraph (e) makes explicit the responsibilities and requirements of Order Entry Firms. The Commission recognizes that the Exchange's proposal will place an explicit prohibition against Order Entry Firms entering or permitting the entry of multiple orders in a call class and/or put class for the same option issue within any 15-second period for an account or accounts of the same beneficial owner. The Commission finds that such prohibition is similar to, although not exactly identical to, provision that it has already approved for other options exchanges.[15] The Commission therefore finds that this 15-second requirement as applicable to multiple orders from the same beneficial owner is consistent with the provisions of the Act and rules thereunder. Furthermore, the Commission believes that accelerated approval of the proposal is appropriate to ensure that the Exchange's market makers are not placed at a competitive disadvantage to those market makers who are trading at an exchange where a substantially similar requirement is currently in place. For these reason, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[16] to accelerate approval of this proposed rule change and Amendments No. 1 and 2.

Furthermore, the Commission finds good cause for approving the proposed rule change and Amendments No. 1 and 2 prior to the thirtieth day after notice of the publication in the **Federal Register**. In addition to making minor technical changes to the proposed rule language, Amendment No. 1 proposes a prohibition against the entry of multiple order in a call class and/or put class for the same option issue within 15-second period by an account or accounts for the same beneficial owner. In addition, Amendment No. 1 amends the proposed rule language to eliminate: (1) The proposed requirement of Order Entry Firms to execute an application and agreement with the Exchange; (2) the proposed language establishing a presumption that the Exchange's prohibition against unbundling would be violated when multiple orders were entered within a 15-second period; (3) the proposed prohibition against entering orders via RAES to perform a market-making function; and (4) the proposed prohibition against manipulation, which the CBOE indicated is covered by other applicable rules and regulations. The CBOE further made minor technical corrections to the proposed rule text. In Amendment No. 2, the CBOE, in addition to making additional technical corrections to the proposed rule text, requested accelerated approval of the instant proposal and stated that the Commission has already approved similar proposals by other options exchanges. The Commission believes that it is not necessary to separately solicit comment on these amendments prior to approving this proposal because it finds that these changes to the proposed rule language are necessary to accomplish the intended goals of the Exchange's proposal. In particular, the Commission believes that the Exchange's establishment of a prohibition on members entering or

[13] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Securities Exchange Act Release Nos. 43971 (February 15, 2001), 66 FR 11344 (February 23, 2001) (order partially approving File No. SR–PCX–00–05); and 44017 (February 28, 2001), 66 FR 13820 (March 7, 2001) (ordering approving File No. SR–ISE–00–20). The Commission approved proposals by the International Stock Exchange LLC (''ISE'') and the Pacific Exchange, Inc. (''PCX'') that prohibit members from entering multiple orders for the same beneficial account within a 15-second period.

[16] 15 U.S.C. 78s(b)(2).

permitting the entry of multiple orders from the account or accounts of the same beneficial owner within a 15-second period, in lieu of a presumption regarding the unbundling of such orders, will add certainty and consistency to the enforcement of the Rule and provide Order Entry Firms with clarity as to what conduct violates the Rule. The Commission therefore finds that acceleration of Amendments No. 1 and 2 is appropriate.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–CBOE–00–47), and Amendments No. 1 and 2 thereto, are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8346 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44121; File No. SR–CBOE–00–48]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to RAES Eligibility Requirements for OEX and DJX Options

March 27, 2001.

I. Introduction

On September 20, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend CBOE Rule 24.17, which governs the eligibility of Market-Makers to participate on the Exchange's Retail Automatic Execution System (''RAES'') in options on the Standard & Poor's 100 Index (''OEX'') and on the Dow Jones Industrial Average (''DJX'').

The proposed rule change was published for comment in the **Federal Register** on December 14, 2000.[3] On January 31, 2001, the Exchange filed Amendment No. 1 to the proposal.[4] No comments were received on the proposal. This order approves the proposed rule change, grants accelerated approval to Amendment No. 1, and solicits comments from interested persons on Amendment No. 1.

The text of the proposed rule change, as amended, is set forth below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 24.17

(b) Individuals.

(iv) An individual member who is logged onto RAES must log off the system whenever he leaves the trading crowd*, unless the departure is for a brief interval.*

(v) RAES participation in the Option Class is limited to Market-Makers in that Option Class. To qualify, a Market-Maker must:

(A) be approved under Exchange rules as a Market-Maker with a letter of guarantee, *and,*

(B) maintain his principal business on the CBOE as a Market-Maker.[,]

[(C) execute at least seventy five percent of his Market Maker contracts for the preceding calendar month in that Option Class, and

(D) execute at least seventy five percent of his Market Maker trades for the preceding calendar month in that Option Class in person.

In making these calculations, RAES trades will not be considered.]

(vi) A Market-Maker may be eligible to participate in RAES in OEX and DJX during the same calendar month as long as:

(A) OEX and DJX are trading in the same physical trading structure on the floor of the Exchange, *and*

(B) that Market-Maker satisfies the requirements of sub-paragraphs (b)(v)(A) and (b)(v)(B). [, and]

[(C) that Market Maker meets one of the following three criteria: (1) The Market Maker satisfies the requirements of (b)(v)(C) and (b)(v)(D) with respect to OEX; (2) the Market Maker satisfies the requirements of (b)(v)(C) and (b)(v)(D) with respect to DJX; or (3) the Market Maker satisfies the requirements of (b)(v)(C) with respect to contracts in OEX and DJX combined and (b)(v)(D) with respect to his Market Maker trades in either OEX or DJX.]

A Market-Maker must be present in the particular trading crowd where the class is traded while he is participating in RAES for that class.

(c) Joint Accounts.

(iii) Members of the joint account that are not present in the trading crowd for the Option Class may not be logged onto RAES. Any member of the joint account that has been logged onto RAES must log off the system whenever he leaves the trading crowd for the Option Class *for other than a brief interval.* Once a member of a joint account has been logged onto RAES for that Option Class at any time during an expiration cycle, each member of that account must be logged onto RAES for that Option Class at any time that he enters the trading crowd for that Option Class from the date of the initial log on through the business day immediately preceding expiration.

(e) Authority to Disapprove

(i) No person or entity may participate directly or indirectly in RAES, or share in the profits, directly or indirectly, with more than one RAES group. [, which may not exceed the maximum number of RAES participants set by the appropriate Committee from time to time. In no event may the appropriate Committee set a maximum number higher than 50 RAES participants or 25% of the average number of RAES participants for the prior quarter, whichever is smaller. The appropriate Committee will give groups one month notice if a reduction in group size becomes necessary due to application of the this size limit. The appropriate Committee reserves the authority to establish lower limits on the size of groups eligible to use RAES. Such limits may be imposed by the Committee at any time.]

(ii) The appropriate Committee [also] retains the right to disallow any group from participating in RAES where it appears to the Committee that such group:

(A) has ''purchased'' RAES rights from members of the group;

(B) does not afford each group participant a reasonable participation in profits and losses (as a guideline: no RAES participant may receive a flat fee, and a minimum participation level of any group member is ¼ of an equal distribution to all group members, with responsibility for losses equivalent to share of profits);[4]

(C) is managed by a person who is not a member of the group; or

(D) is managed by a person who has a financial interest in another group.

(f) Authority to Require RAES Participation

(i) Notwithstanding the limitations in paragraph (b)(v)[(C) and (D)] and paragraph (b)(vi), if there appears to be inadequate RAES participation in the Option Class, the chairperson of the appropriate Committee, or a designee thereof, in consultation with a senior Exchange executive officer, may require Market-Makers who are members of the trading crowd, as defined in Rule 8.50 to log on to RAES absent reasonable justification or excuse for non-participation. If there continues to be inadequate RAES participation, the chairperson of the appropriate Committee or a designee, in consultation with a senior Exchange executive officer, may request participation of all Market-Makers whether or not they are members of the Option Class crowd.

* * * * *

II. Description of the Proposal

Currently, Rule 24.17(b)(v) sets forth four eligibility requirements that must

[17] *Id.*

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 43676 (December 5, 2000), 65 FR 78231.

[4] *See* letter from Jamie Galvin, Attorney, Legal Division, CBOE, to Steven Johnston, Special Counsel, Division of Market Regulation, Commission, dated January 31, 2001. Amendment No. 1 proposes an exception to a requirement that Market-Makers remain logged onto RAES (''Amendment No. 1'').

be met by a Market-Maker before he or she can participate on RAES in either OEX or DJX options. The CBOE proposal would eliminate two of the current four Market-Maker eligibility requirements. One of these requirements is that the Market-Maker must execute at least seventy-five percent of his or her Market-Maker contracts for the preceding calendar month in the option class in which the Market-Maker is participating on RAES. Another requirement is that the Market-Maker must execute in person at least seventy-five percent of his or her Market-Maker trades for the preceding calendar month in the option class in which the Market-Maker is participating on RAES. No comparable RAES eligibility requirements are imposed upon Market-Makers trading in non-index option classes. The Exchange proposes to eliminate the in-person and volume quotas from the eligibility requirements of Rule 24.17 so that the RAES eligibility requirements of OEX and DJX Market-Makers are the same as those for Market-Makers trading in non-index options.[5]

The Exchange represents that recently, Market-Maker participation on RAES in index options has been low compared to historical levels. The Exchange believes that this is a problem that has been aggravated by the fact that the in-person and volume requirements in essence require the Exchange to have new Market-Makers desiring to participate on RAES wait for at least 30 days before logging onto RAES. The proposed rule change would permit a new Market-Maker to log onto RAES if the Market-Maker: (1) Has signed the RAES Participation Agreement and completed the RAES instructional program; [6] (2) has been approved under Exchange rule as a Market-Maker with a letter of guarantee; [7] and (3) is maintaining his or her principal business on the CBOE as Market-Maker.[8]

Also, the Exchange proposes to eliminate certain requirements that Market-Makers currently must meet to participate in both OEX and DJX options during the same calendar month. Rule 24.17(b)(vi)(C) requires that, before participating in both OEX and DJX options during the same month, a Market-Maker must meet: (1) The in-person and volume requirements with respect to OEX; (2) the in-person and volume requirements with respect to DJX; or (3) the volume requirement with respect to OEX and DJX combined, as well as the in-person requirement with respect to OEX or DJX. The Exchange proposal would eliminate Rule 24.17(b)(vi)(C). Under the proposed rule change, a Market-Maker would be eligible to participate in OEX and DJX during the same calendar month as long as: (1) OEX and DJX options continue to be traded at the same physical trading locations; [9] and (2) the Market-Maker meets the criteria under 24.17(b)(v)(A) and 24.17(b)(v)(B).[10]

The Exchange also proposes to eliminate the cap, set forth in Rule 24.17(e)(i), on the number of Market-Makers that may participate in a RAES group. Rule 24.17(e)(i) provides that a RAES group may not exceed the lesser of (1) 50 RAES participants; (2) 25 percent of the average number of RAES participants for the prior quarter, or (3) a smaller maximum number set by ''the appropriate Committee'' [11] According to the CBOE, a recent decline in RAES participation in index options has, by operation of Rule 24.17(e)(i), resulted in reductions, as compared to historical levels, in the size of RAES groups. The reductions have taken place because Rule 24.17(e)(i) currently ties maximum RAES group size to the level of RAES participation.[12]

The Exchange further proposes to add to Rule 24.17 an exception to the requirement that a Market-Maker who has logged onto RAES in OEX or DJX must log RAES whenever he or she leaves the respective trading crowd. The exception would allow OEX and DJX Market-Makers to remain logged onto RAES if the Market-Maker's departure from the trading crowd were for a ''brief interval.'' The proposed exception mirrors one in current Rule 24.16,[13] which governs eligibility requirements for the Standard & Poor's 500 Index (''SPX''), and in rule 8.16,[14] the eligibility rule for equity options.[15] The Exchange believes that OEX and DJX RAES Market-Makers should have the benefit of an exception that currently applies to SPX and equity options Market-Makers. ''The appropriate Committee'' would have authority to determine the length of time that constitutes a ''brief interval'' for the OEX and DJX trading crowds. Finally, Amendment No. 1 proposes to revise Rule 24.17(c)(iii) to require members of a joint account [16] who have been logged onto RAES to log off the system whenever they leave the trading crowd for other than a brief interval. The proposed revision would make the language of proposed Rule 24.17(c)(iii) identical to the language of Rule 24.16(c)(iii).[17]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act [18] and the rules and regulations promulgated thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[19] which requires that the rules of an Exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

The CBOE proposal would amend Rule 24.17 to eliminate what the CBOE represents are several disincentives to Market-Maker participation in OEX and DJX trades. The Commission finds that removal of in-person volume quotas, elimination of the cap on the number of Market-Makers that may participate in OEX and DJX trades, and the inclusion of an exception to log-on requirements, are appropriate measures to reduce disincentives. In addition, the Commission recognizes the importance of encouraging Market-Maker participation to ensure adequate liquidity, particularly where participation levels are low.

The Commission finds good cause for approving Amendment No. 1 to the

[5] The remaining two eligibility provisions for the Market-Makers desiring to trade in OEX and DJX options would continue to require Market-Makers to be approved under Exchange rules and to maintain their principal places of business on the CBOE as Market-Makers. CBOE Rule 24.17(b)(v)(B); CBOE Rule 24.17(b)(v)(C).

[6] CBOE Rule 24.17(b)(i).

[7] CBOE Rule 24.17(b)(v)(A).

[8] CBOE Rule 24.17(b)(v)(B).

[9] CBOE Rule 24.17(b)(vi)(A).

[10] CBOE Rule 24.17(b)(vi)(B).

[11] CBOE Rule 24.17(a)(iii) defines ''the appropriate Committee'' as ''the Exchange Committee to which the Exchange delegates the market performance function for options on the S&P 100 in the case of OEX and on the DJIA in the case of DJX.''

[12] Conversation between Jamie Galvin, Attorney, Legal Division, CBOE, and Steven Johnston, Special Counsel, Division of Market Regulation, Commission, February 28, 2001 (clarifying operation of current CBOE Rule 24.17(e)).

[13] CBOE Rule 24.16(c)(iii).

[14] CBOE Rule 8.16(a)(iii).

[15] A ''brief interval'' in SPX options has been determined by ''the appropriate Committee'' to mean no more than 10 to 15 minutes. In equity options, a brief interval has been determined by ''the appropriate Committee'' to mean 5 minutes or less.

[16] A member of a joint account is either: (1) A Market-Maker having an appointment under CBOE Rule 8.7(b); or (2) a clearing member which carries the joint account. CBOE Rule 8.9, Interpretation .01.

[17] Amendment No. 1.

[18] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

CBOE proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. By extending to members of joint accounts the ''brief interval'' exception to the RAES log-on requirement, Amendment No. 1 provides for more consistent application of that exception. Therefore, the Commission finds good cause for accelerating approval of Amendment No. 1.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of Amendment No. 1 to the proposed rule change will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. CBOE–00–48 and should be submitted by April 26, 2001.

V. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposal (SR–CBOE–00–48) be and hereby is, approved, and Amendment No. 1 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8347 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44134; File No. SR–CBOE–01–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Regarding the Duration of Equity Linked Term Notes

March 29, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of substance of the Proposed Rule Change

The Exchange proposes to amend its listing standards relating to the durational requirements of Equity Linked Term Notes (''ELNs''). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 30, 1994, the Commission approved listing criteria for Equity Linked Term Notes trading on the Exchange.[4] ELNs are intermediate-term, hybrid instruments whose value is linked to the performance of a highly-capitalized, actively traded common stock, not-convertible preferred stock, or sponsored American Depositary Receipt (''ADR''). CBOE Rule 31.5(I) establishes the listing criteria for ELNs. Among these criteria, 31.5(I)(a) requires that ELNs have a term of two to seven years, but no more than three years, if the issuer is a non-U.S. company. The Exchange initially adopted this term minimum to help ensure that the trading of ELNs did not have an adverse effect on the liquidity of the underlying stock and were not used in a manipulative manner.

Since the Exchange began listing ELNs for trading, the possible adverse effects set forth above have not manifested themselves. In fact, the Exchange believes that ELNs may complement the trading of the underlying stocks and the continued popularity of ELNs amply demonstrates their appeal in the market. Accordingly, the Exchange proposes to amend Rule 31.5(I)(a) to reduce the minimum term requirement of ELNs from two years to one year and to eliminate the maximum term requirement of three years for when the issuer is a non-U.S. company.[5]

The Exchange believes that the proposed changes to the term requirements will provide issuers with more flexibility in developing ELNs and thus provide greater investment choices in the market. In this respect, the Exchange notes that many corporate debt instruments have terms in excess of seven years, and that this rule change will allow the structuring of ELNs with terms to maturity comparable to such debt instruments. Furthermore, extending the term of ELNs will provide issuers with the ability to offer variations on ELNs, such as principal protection and call features that may not be as desirable on debt instruments with a shorter term. The Exchange believes that this added flexibility will encourage innovation without having an

[4] Securities Exchange Act Release No. 34759 (September 30, 1994), 59 FR 50939 (October 6, 1994) (approving SR–CBOE–94–04).

[5] The Exchange notes that it will provide the Commission with advance notice if it intends to list ELNs linked to a non-U.S. security and the issue has a duration of more than three years.

adverse effect on investor protection. The Exchange also notes that it has in place surveillance procedures with respect to ELNs and the securities linked to ELNs for the purposes of identifying and deterring manipulative trading activity.

The proposed amendment will allow CBOE to conform its listing requirements applicable to ELNs to the criteria established by the rules of the other exchanges. In this respect, CBOE notes that the Commission has approved identical rule changes of the New York, American, and Chicago Stock Exchanges.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5)[8] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) or Rule 19b–4 thereunder.[10] Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6).[12] The Exchange also provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–01–06 and should be submitted by April 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8353 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

[6] *See* Securities Exchange Act Release No. 41992 (October 7, 1999), 64 FR 56007 (October 15, 1999) (order approving SR–NYSE 99–22); Securities Exchange Act Release No. 42110 (November 5, 1999), 64 FR 61677 (November 12, 1999) (order approving SR-Amex 99–33); and Securities Exchange Act Release No. 42313 (January 4, 2000), 65 FR 2205 (January 13, 2000) (order approving SR–CHX–99–19).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44133; File No. SR–NYSE–00–21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Electronic Delivery of Proxy Materials and Proxies

March 29, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On February 23, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. The Commission has also decided to grant accelerated approval to the amended proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Section 402.04 of the *Listed Company Manual* (''Manual''). This section of the Manual sets forth the proxy solicitation requirements for listed companies. The text of proposed rule change follows. Additions are in *italics;* deletions are [bracketed].

NYSE Listed Company Manual

* * * * *

Section 4 Shareholders' Meetings and Proxies

* * * * *

402.04 Proxy Solicitation Required

(A) Actively operating companies are required.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from James E. Buck, Senior Vice President and Secretary, NYSE to Sharon M. Lawson, Division of Market Regulation, SEC, dated February 22, 2001 (''Amendment No. 1''). In Amendment No. 1, the Exchange proposed changes to the text of the rule that clarifies that electronic delivery of proxy materials and proxies must be effected in compliance with applicable federal and state laws, including for the purposes of this rule, interpretations of the Commission.

(B) Electronic Delivery of Proxy Materials. As permitted by applicable state and federal law (including any interpretations thereof by the SEC), a company may arrange for the delivery of its proxy material by electronic means (including by posting on a company's web site, with an electronic mail notice to the beneficial owner of its availability on the web site) to beneficial owners who have given their prior written consent to such delivery. Such consent may be in the form of electronic mail. Such arrangements should be made in coordination with any intermediaries that are record holders of the securities. Proxies may also be delivered by electronic means by beneficial owners as permitted by applicable state and federal law (including any interpretations thereof by the SEC) and if appropriate arrangements have been made with any intermediaries that are record holders of the securities. (See, for example, the following interpretations by the SEC: Release No. 34–36345, File No. S7–31–95; Release No. 34–37182, File No. S7–13–96; and Release Nos. 33–7856, 34–42728, File No. S7–11–00).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make it possible for companies to arrange for the delivery of proxy material to beneficial owners by electronic means, as permitted by and in compliance with applicable state and federal law, which for the purposes of this rule will include any interpretations thereof by the Commission.[4] The term ''electronic means'' will include (but will not be limited to) posting such materials on the company's web site, with an electronic mail notice to the beneficial owner of the availability of such posting. The amended rule provides that the described electronic delivery may be utilized only if beneficial holders have given prior written consent to such delivery (consents by electronic mail will be acceptable).

Pursuant to the proposed rule change, beneficial owners will also be allowed to deliver their proxies by electronic means, subject to applicable state and federal laws, as described above, which also includes Commission interpretations.[5] Finally, the proposed rule change provides that any arrangements for electronic delivery of proxies and proxy materials should be coordinated with any intermediaries[6] who are record holders of the affected securities.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5)[8] of the Act, which requires, among other things, that exchange rules be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR–NYSE–00–21 and should be submitted by April 26, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,[9] and in particular, the requirements of Section 6(b)(5) of the Act.[10] The Commission finds that the Exchange's proposal to permit listed companies to deliver proxy materials by electronic means to foster cooperation and coordination with persons engaged in processing information with respect to securities because it would allow issuers and investors to utilize new technology to deliver documents required under the Act in a more efficient manner.[11]

[4] To date, applicable interpretations of the Commission include Release No. 34–36345 (October 6, 1995), 60 FR 53458 (October 12, 1995) (File No. S7–31–95); Release No. 34–37182 (May 9, 1996), 61 FR 24644 (May 15, 1996) (File No. S7–31–96); Release Nos. 33–7856, 34–42728 (April 28, 2000), 65 FR 25843 (May 4, 2000) (File No. S7–11–00).

[5] *Id.*

[6] Section 402.07 of the Listed Company Manual sets forth procedures that the Exchange has established for guidance of member organizations acting as intermediaries under NYSE Rules 450 to 455. These rules, among other things, establish the requirements of member organizations that transmit proxy materials to beneficial owners. According to the Exchange, it has interpreted Section 402.07 of the Listed Company Manual, which sets forth the methods to be used in transmitting proxy materials, to allow members to transmit proxy materials to beneficial owners in a manner consistent with Section 402.04 of the Listed Company Manual. Therefore, member organizations that act as nominees for beneficial owners may use electronic delivery methods to deliver proxy materials to beneficial owners so long as they comply with the provisions of Section 402.04, as amended. Telephone call between Elena Daly, Assistant General Counsel, NYSE, and Kelly Riley, Special Counsel, SEC, on March 22, 2001.

[7] The Exchange stated that it will send written notification to its listed companies and member organizations of the new electronic delivery provisions and refer them to applicable federal and state law as well as the Commission's interpretations. Telephone call between Elena Daly, Assistant General Counsel, NYSE, and Kelly Riley, Special Counsel, SEC, on March 15, 2001.

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] The Commission notes that the Section 402.04 of the Listed Company Manual applies to NYSE-

Continued

Specifically, issuers should be able to delivery proxy materials to investors in a more timely and cost effective fashion. Issuers that send their proxy materials to their investors electronically should realize savings on postage and printing costs. Furthermore, because electronic delivery methods permit near instantaneous delivery of documents, investors could receive their proxy materials sooner than permitted by the current delivery methods. In addition, the Commission finds that the proposed rule change is not designed to permit unfair discrimination between issuers because all NYSE-listed companies will be able to make use of electronic delivery methods under the rule.

Under the proposed rule, issuers and member organizations will only be permitted to use electronic means to deliver proxy materials as permitted by applicable federal and state law, including interpretations issued by the Commission. To date the Commission has issued three interpretations on this issue.[12] Accordingly, all electronic deliveries effected under the NYSE rule would have to comply with the requirements in these interpretations and any future interpretations that the Commission may issue on this matter. Further, issuers and member organizations will only be permitted to use electronic means to deliver proxy materials if they have received written consent for such delivery means from each individual investor. The Commission believes that these restrictions should ensure that all investors continue to receive proxy materials regardless of the delivery method used.

The proposal would permit beneficial owners to use electronic means to deliver proxies. Like issuers, beneficial owners would only be permitted to utilize electronic means to deliver proxies as permitted by applicable state and federal law, including applicable Commission interpretations. The Commission believes these requirements will allow beneficial owners to use and gain the benefits of new technological advances.

Finally, as noted above, the Commission to date has issued three interpretations regarding electronic delivery requirements under federal securities laws.[13] Issuers and member organizations using electronic delivery means for proxy materials and proxies are required under the proposed rule to ensure that they comply with current Commission interpretations, as well as any future interpretations that the Commission may issue on these issues. The Commission expects that the Exchange will monitor developments regarding electronic delivery requirements and notify their members and listed companies in the event the Commission issues future releases on these issues.

The Commission finds good cause to approve the proposal prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. By accelerating effectiveness of the Exchange's rule proposal, NYSE issuers and members would be able to utilize electronic delivery methods for the current proxy season. The Commission believes that the Exchange has complied with the regulatory requirements for the use of electronic delivery methods by requiring compliance with applicable federal and state law as well as requiring that investors consent to electronic delivery in writing. The Commission believes that these requirements should ensure that investors continue to receive their proxy materials in accordance with federal and state law. Further, the proposed rule change does not change delivery requirements. It merely provides an alternative method by which delivery can be accomplished. Accordingly, the Commission believes that good cause exists, consistent with Sections 6(b)(5)[14] and 19(b)(2)[15] of the Act, to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the amended proposed rule change (SR–NYSE–00–21) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8351 Filed 4–4–01; 8:45 am]

BILLING CODE 8351–M

listed companies. According to NYSE, it has interpreted the requirements of Section 402.04 of the Listed Company Manual to apply to NYSE members who act as nominees and hold securities for beneficial owners, pursuant to Section 402.07 of the Listed Company Manual. The Commission suggests that the NYSE consider adding a cross reference to this effect to help clarify their rules.

[12] *See* note 4 *supra.*

[13] *See* note 4 *supra.*

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(2).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44131; File No. SR–PCX–01–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Prohibition of Harassment

March 29, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to file with the Commission its statements on Fiduciary Responsibility of the Members of the Board of Governors, Fiduciary Responsibilities of Committee Members and Floor Officials and Employee Handbook.

The text of the proposed rule change is available at the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has and will continue to insist that Members of its Board of Governors, its Committee Members, employees, officers, directors and other

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

officials or agents observe the highest standards of business ethics and ensure fair dealings in the operation of the Exchange.

Therefore, the Exchange is proposing to file with the Commission its statements on Fiduciary Responsibilities of the Members of the Board of Governors, Fiduciary Responsibilities of Committee Members and Floor Officials and Employee Handbook which reflect its policy prohibiting its Governors, Committee Members, employees, officers, directors, and other officials or agents from engaging directly or indirectly in any conduct that threatens, harasses, intimidates, constitutes a refusal to deal or retaliate against any member, employee of a member or any other market participant because such member: (1) Has made a proposal to any exchange or other market to list or trade any option issue; (2) has advocated or made proposals concerning the listing or trading of an option issue on any exchange or other market; (3) has commenced making a market in or trading any option issue on any exchange or other market; (4) seeks to increase the capacity of any options exchange or the options industry to disseminate quote or trade data; (5) seeks to introduce new option products; or (6) acts or seeks to act competitively.

The PCX believes that the prohibited conduct discussed above is inconsistent with the obligation of all Governors, Committee Members, employees, officers, directors, and other officials or agents in their responsibilities to the Exchange and the public interest in the operation of fair and efficient options markets. The PCX will strictly enforce the requirements of the proposed rule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5)[4] in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest by prohibiting harassment in the listing of options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[5] and Rule 19b–4(f)(6) thereunder.[6] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) by its terms does not become operative for 30 days after February 12, 2001, the date on which it was filed, or such shorter time as the Commission may designate, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A)(iii)[7] of the Act and Rule 19b–4(f)(6)[8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–PCX–01–11 and should be submitted by April 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–8352 Filed 4–4–01; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(6).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Office of Visa Services

[Public Notice 3630]

Proposed Information Collection; Notice

AGENCY: Department of State.

ACTION: 30-Day notice of proposed information collection (OMB 1405–0015): DS–230, Application for immigrant visa and alien registration (Formerly OF–230).

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of Currently Approved Collection Originating Office: Bureau of Consular Affairs, Office of Visa Services (CA/VO)

Title of Information Collection: Application for Immigrant Visa and Alien Registration.

Frequency: Once.

Form Number: DS–230 (formerly OF–230).

Respondents: All immigrant visa applicants.

Estimated Number of Respondents: 750,000.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 1,500,000 hours.

Public comments are being solicited to permit the agency to:

• Evaluate whether the proposed information collection is necessary for the proper performance of the functions

of the agency, including whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Eric Cohan, 2401 E ST NW., RM L–703, U.S. Department of State, Washington, DC 20520, (202) 663–1164. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: March 5, 2001.

George Lannon,

Deputy Assistant, Secretary of State for Visa Services, Bureau of Consular Affairs, U.S. Department of State

[FR Doc. 01–8419 Filed 4–4–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Office of Visa Services

[Public Notice 3631]

Proposed Information Collection Notice

AGENCY: Department of State.

ACTION: 30-Day notice of proposed information collection (OMB 1405–0091): DS–117, Application to determine returning resident status (Formerly DSP–117).

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of Currently Approved Collection

Originating Office: Bureau of Consular Affairs, Office of Visa Services (CA/VO).

Title of Information Collection: Application to Determine Returning Resident Status.

Frequency: Once.

Form Number: DS–117 (formerly DSP–117).

Respondents: All applicants for returning resident status.

Estimated Number of Respondents: 1,000.

Average Hours Per Response: 0.5 hours.

Total Estimated Burden: 500 hours.

Public comments are being solicited to permit the agency to:

• Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Eric Cohan, 2401 E ST NW., RM L–703, U.S. Department of State, Washington, DC 20520, (202) 663–1164. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: March 5, 2001.

George Lannon,

Deputy Assistant, Secretary of State for Visa Services, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–8420 Filed 4–4–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 3632]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: International Visitor Program Assistance Awards

SUMMARY: The Office of International Visitors of the Division of Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, (ECA/PE/V), United States Department of State (DOS) announces an open competition for two assistance awards to support the International Visitor program. Awards will be divided into one small awards' category (Award A) and one large awards' category (Award B). Funding will be for FY–2002 (October 1, 2001–September 30, 2002). The small assistance award (AWARD A) will include the development and implementation of International Visitor programs (IV) for up to 450 current or potential foreign leaders; the large award (AWARD B) will include the development and implementation of IV programs for up to 1,700 current or potential foreign leaders. Public and private nonprofit organizations not receiving Office of International Visitor assistance awards for FY–2002 and meeting the provisions described in IRS regulation 26 CFR 1.501© may apply for these awards. *[See Project Objectives, Goals and Implementation (POGI) for definitions of program-related terminology.]

The intent of this announcement is to provide the opportunity for two organizations to develop and implement a variety of IV programs including those funded through FREEDOM Support Act (FSA) and Support for Eastern European Democracy (SEED) Act transfers. The award recipients will function as national program agencies (NPAs) and will work closely with DOS Bureau staff, who will guide them through procedural, budgetary and/or programmatic issues for the full range of IV programs, as they arise. (Hereafter, the terms ''award recipient'' and ''national program agency'' will be used interchangeably to refer to the winning organization(s). On occasion, the award recipients may be asked to develop and implement specialized IV programs.

The award recipients will develop over the course of fiscal year 2002 (October 1, 2001—September 30, 2002) two discrete sets of IV programs: (1) (AWARD A): up to 450 foreign participants; and (2) (AWARD B): up to 1,700 foreign participants. Applicant organizations may bid on one or both awards. Pending availability of funds, one award will be made under the small assistance award and one will be made under the large assistance award. If an organization is interested in bidding on both awards, a separate proposal and budget is required for each award.

Program Information

Overview: IV program goals are based on U.S. foreign policy objectives and are designed to: (1) increase mutual understanding between the people of the U.S. and the people of other countries; and (2) provide substantive professional exchange between the

foreign participants and their U.S. counterparts. Participants are current or potential foreign leaders in government, politics, media, education, science, labor relations, and other key fields. They are selected by officers of U.S. embassies overseas and approved by the DOS staff in Washington, D.C. Since the program's earliest inception in 1940, there have been more than 140,000 distinguished participants in the program. Almost 200 program alumni subsequently became heads of state or government in their home countries. All IV programs must maintain a non-partisan character.

The Bureau seeks proposals from non-profit organizations for development and implementation of professional programs for Bureau–sponsored International Visitors to the U.S. Once the awards are made, separate proposals will be required for each group program (Single Country (SCP)*, Sub–Regional (SRP)*, Regional (RP)*, and Multi-Regional (MRP)*) as well as less formal proposals for Individual and Individuals Traveling Together (ITT)* programs. At this time proposals are not required for Voluntary Visitor (VolVis)* programs.

Each program will be focussed on a substantive theme. Some common IV program themes are: (1) U.S. foreign policy; (2) U.S. government systems; (3) U.S. political system; (4) economic development; (5) education and training; (6) media; (7) information technology; (8) U.S. social concerns; and (9) environmental issues. IV programs must conform to all Bureau requirements and guidelines. Please refer to the Program Objectives, Goals, and Implementation (POGI) document for a more detailed description of each type of IV program.

Guidelines: Goals and objectives for each specific IV program will be shared with the award recipients at an appropriate time following the announcement of the assistance awards. Most programs will be 21 to 30 days in length and will begin in Washington, DC, with an orientation and overview of the issues and a central examination of federal policies regarding these issues. Well-paced program itineraries usually include visits to four or five communities. Program itineraries ideally include urban and rural small communities in diverse geographical and cultural regions of the U.S., as appropriate to the program theme. Programs should provide opportunities for participants to experience the diversity of American society and culture. Participants in RPs or MRPs are divided into smaller sub-groups for simultaneous visits to different communities, with subsequent opportunities to share their experiences with the full group once it is reunited.

Award recipients should demonstrate the potential to develop the type of programs described below:

- Programs must contain substantive meetings that focus on foreign policy goals and program objectives and are presented by experts. Meetings, site visits, and other program activities should promote dialogue between participants and their U.S. professional counterparts. Programs must be balanced to show different sides of an issue;
- Most programs are 21 days in length and begin in Washington, DC, with an orientation and overview of the issues and a central examination of federal policies regarding these issues;
- Well-paced program itineraries usually include visits to four or five other communities. Program itineraries ideally include urban and rural communities in diverse geographical and cultural regions of the U.S., as appropriate to the program theme;
- Programs should provide opportunities for participants to experience the diversity of American society and culture. Depending on the size and theme of a large group program, the award recipients can divide the participants into smaller sub-groups for simultaneous visits to different communities, with subsequent opportunities to share their experience with the full group once it is reunited;
- Programs may provide opportunities for the participants to share a meal or similar experience (home hospitality) in the homes of Americans of diverse occupational, age, gender, and ethnic groups. Some individual and group programs might include an opportunity for an overnight stay (home stay) in an American home;
- Programs should provide opportunities for participants to address student, civic and professional groups in relaxed and informal settings;
- Participants should have appropriate opportunities for site visits and hands-on experience that are relevant to program themes. The award recipients may propose professional ''shadowing'' experiences with U.S. professional colleagues for some programs; (A typical shadowing experience means spending a half- or full-workday with a professional counterpart.)
- Programs should also allow time for participants to reflect on their experiences and, in group programs, to share observations with program colleagues. Participants should have opportunities to visit cultural and tourist sites; and
- The award recipients must make arrangements for community visits through affiliates of the NCIV. In cities where there is no such Council, the award recipients will arrange for coordination of local programs.

The award recipients are expected to have a Washington, D.C. presence, e-mail capability, and access to internet resources. DOS will provide close coordination and guidance throughout the duration of the awards.

Qualifications:

1. Applicants' proposals must demonstrate four years of successful experience in coordinating international exchanges.

2. Applicants' proposals must demonstrate the ability to develop and administer IV programs.

3. Proposals should demonstrate an applicant's broad knowledge of international relations and U.S. foreign policy issues.

4. Proposals should demonstrate an applicant's broad knowledge of the United States and U.S. domestic issues.

5. Proposals should demonstrate that an applicant has an established resource base of programming contacts and the ability to keep the base continuously updated. This resource base should include speakers, thematic specialists, or practitioners in a wide range of professional fields in both the private and public sectors.

6. All proposals must demonstrate sound financial management.

7. All proposals must contain a sound management plan to carry out the volume of work outlined in the Solicitation. This plan should include an appropriate staffing pattern and a work plan/time frame.

8. Applicants must include in their proposal narrative a discussion of ''lessons learned'' from past exchanges coordination experience, and how these will be applied in implementing the International Visitor Program.

9. Applicants must include as a separate attachment under TAB G of their proposals the following:

- Samples of at least two schedules for international exchange or training programs that they have coordinated within the past four years that they are particularly proud of and that they feel demonstrate their organization's competence and abilities to conduct the activities outlined in the RFGP;
- Samples of orientation and evaluation materials used in past international exchange or training programs.

Requirements for Past Performance References

Instead of Letters of Endorsement, DOS will use past performance as an indicator of an applicant's ability to successfully perform the work. Tab E of the proposal must contain between three and five references who may be called upon to discuss recently completed or ongoing work performed for professional exchange programs (may include the IV program). The references must contain the information outlined below. Please note that the requirements for submission of past performance information also apply to all proposed subcontractors when the total estimated cost of the subcontract is over $100,000.

At a minimum, the applicant must provide the following information for each reference:

- Name of the referenced organization
- Project name
- Project description
- Performance period of the contract/grant
- Amount of the contract/grant
- Technical contact person and telephone number for referenced organization
- Administrative contact person and telephone number for referenced organization

DOS may contact representatives from the organizations cited in the examples to obtain information on the applicant's past performance. DOS also may obtain past performance information from sources other than those identified by the applicant.

Personnel

Applicants must include complete and current resumes of the key personnel who will be involved in the program management, design and implementation of IV programs. Each resume is limited to two pages per person.

Visa Requirements

IV program participants will travel on J–1 visas arranged by the DOS. Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further details.

Budget Guidelines

Applicants are required to submit a comprehensive line-item administrative budget in accordance with the instructions in the Solicitation Package (Proposal Submission Instructions.) The submission must include a summary budget and a detailed budget showing all administrative costs. If an organization wishes to bid on both Awards A and B, a separate proposal and budget for each award must be submitted. Proposed staffing and costs associated with staffing must be appropriate to the requirements outlined in the RFGP and in the Solicitation Package.

Award recipients enter into close consultation with the responsible ECA/PE/V Program Officer throughout development, implementation, and evaluation of each IV program. Cost sharing is encouraged and should be shown in the budget presentation.

The Department of State is seeking proposals from public and private non-profit organizations that are not already in communication with DOS regarding an FY–2002 assistance award from ECA/PE/V. All applicants must have four years' experience conducting international exchanges. It is incumbent on organizations to demonstrate a capacity for programming IV participants from all geographic regions of the world; proven fiscal management integrity; and an ability to have close consultation with DOS staff throughout program administration. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All communications with DOS concerning this announcement should refer to the announcement's title and reference number ECA/PE/V–02–01.

FOR FURTHER INFORMATION, CONTACT: The Office of International Visitors, Community Relations Division (ECA/PE/V/C), Room 266, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone (202) 619–5234, fax (202) 619–4655, to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. For all other inquiries, please contact, Janet Beard, Chief, Group Projects Division (ECA/PE/V/P), telephone (202) 619–6892; fax (202) 205–0792; or e-mail: jbeard@pd.state.gov.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at: *http://exchanges.state.gov/education/RFGPs*. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC, time, by June 1, 2001. Faxed documents will not be accepted at any time nor will documents postmarked the due date but received on a later date. Each applicant must ensure that the proposals are received by the above deadline.

Submissions: Applicants must follow all instructions in the Solicitation Package. The original and 12 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/V–02–01, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to, ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy'', the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully

adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to grant panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Advisor or by other Department elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards or cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered, and all carry equal weight in the proposal evaluation:

1. *Evidence of Understanding/Program Planning:* The proposal should convey that the applicant has a good understanding of the overall goals and objectives of the IV Program. It should exhibit originality, substance, precision, and be responsive to requirements stated in the RFGP and the Solicitation Package. The proposal should contain a detailed and relevant work plan that demonstrates substantive intent and logistical capacity. The plan should adhere to the program overview and guidelines cited in the RFGP.

2. *Support of Diversity:* The proposal should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of resources, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

3. *Institutional Capacity:* The proposal should clearly demonstrate the applicant's capability for performing the type of work required by the IV Program and how the institution will execute its program activities to meet the goals of the IV Program. It should reflect the applicant's ability to design and implement, in a timely and creative manner, professional exchange programs which encompass a variety of project themes. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. Finally, the proposal also must demonstrate that the applicant has or can recruit adequate and well-trained staff.

4. *Institution's Record/Ability:* The proposal should demonstrate an institutional record of a minimum of four years of successful experience in conducting IV or other professional exchange programs, which are similar in nature and magnitude to the scope of work outlined in this solicitation. Note that evidence of success includes responsible fiscal management and full compliance with all reporting requirements such as those set out for DOS cooperative agreements. The applicant must demonstrate the potential for programming IV participants from all geographic regions of the world and must have a Washington, D.C. presence.

5. *Cost-effectiveness/Cost-sharing:* The administrative and indirect cost components of the proposal, including salaries, should be kept as low as possible. Consideration will be given to proposed cost-sharing through other private sector support and institutional direct funding contributions.

6. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and to the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding.

Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Government Reporting Requirements

In order to account better for the spending of public funds, the Government Performance and Results Act of 1993 (GPRA) requires federal agencies and departments to establish standards for measuring their performance and effectiveness. Each Executive Branch Agency and Department must develop a strategic plan describing its overall goals and objectives, annual performance plans containing quantifiable measures of its progress, and performance reports describing its success in meeting these goals and measures. DOS will be looking to our partner organizations to measure and report in three areas: (1) Program efficiency (resource costs versus outputs); (2) program effectiveness (degree to which program goals are achieved); and (3) program impact (outcomes).

For general administrative assistance awards such as this, specific program results will be worked out on an individual project basis. DOS will work closely with its partner organizations to define specific project results, coordinate the gathering of information, and evaluate the projects according to the three areas listed above. Please note that DOS advances several strategic goals (national security, economic prosperity, American citizens and U.S. borders, law enforcement, democracy and human rights, humanitarian response, global issues: environment, population, health, and mutual understanding) and you may be asked to administer projects and measure outcomes for each. Project outcomes will be based on country or regional goals as well as the Bureau of Educational and Cultural Affairs' goals to expose foreign leaders (participants) to American ideas, values, and society; increase Americans' understanding of foreign cultures and society; foster linkages between U.S. and foreign individuals and institutions; and generate cost sharing and other forms of financial leveraging for programs.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal DOS procedures.

Dated: March 26, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–8421 Filed 4–4–01; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Public Comments on Preparations for the Fourth Ministerial Conference of the World Trade Organization, November 9–13, 2001 in Doha, Qatar

ACTION: Notice and request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) is soliciting public comments on U.S. objectives and preparations for the upcoming meeting of the World Trade Organization (WTO) Ministerial Conference in Doha, Qatar, on November 9–13, 2001. Several subjects addressed in prior TPSC requests for public comments—agriculture, services, market access and the functioning of the WTO generally—continue to feature prominently in the WTO's work program, and will be included in the preparatory process for the Fourth Ministerial Conference. In addition, the agenda for the ministerial meeting, including whether to launch a round of multilateral trade negotiations, will be debated by WTO Members in the coming months. Currently, WTO Members have not reached a consensus on whether to launch a round of negotiations. The United States has signaled that it would be prepared to work toward a consensus among members to realize the launch of a round of negotiations in Doha. As part of the preparatory process, the TPSC is requesting comments so as to take into consideration the broadest range of views concerning the agenda of the meeting and the WTO's future work program. Comments received will be considered by the Executive Branch in formulating U.S. positions for these discussions and deliberations.

DATES: Comments are due by May 10, 2001.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. Attention: Gloria Blue, Executive Secretary, Trade Policy Staff Committee.

FOR FURTHER INFORMATION CONTACT: General inquiries should be made to the Office of WTO and Multilateral Affairs at (202) 395–6843; inquiries about individual subjects will be transferred to appropriate staff members at USTR. Information about the WTO can be obtained via the Internet on the USTR website (*http://www.ustr.gov*), or on the WTO website (*http://www.wto.org*). Procedural inquiries concerning the public comment process should be directed to Gloria Blue, Executive Secretary, TPSC, (202) 395–3475.

SUPPLEMENTARY INFORMATION: Additional information on the WTO and the proposed round of negotiations can be found on the USTR website. In particular, Chapter 2 of the 2001 Trade Policy Agenda and 2000 Annual Report of the President of the United States on the Trade Agreements Program, and the annexes to that chapter contain substantial background information on the WTO, its organization and the work of its councils and committees. Also accessible via the USTR website are Chapter 2 of the 1999 Annual Report of the President on the Trade Agreements Program (submitted on March 1, 2000), which includes a report to Congress assessing the first five years' operation of the WTO; submissions made by the United States thus far in the mandated negotiations on agriculture and services; and submissions to the WTO as part of the preparatory process for the third WTO Ministerial Conference in Seattle in December 1999.

The TPSC invites written comments from the public on preparations for the WTO's Fourth Ministerial Conference meeting to be held in Doha, Qatar, November 9–13. Pursuant to the Agreement Establishing the WTO, meetings of the ministerial conference must be held at least every two years. The Fourth Ministerial Conference will address the WTO's ongoing program of work, including the mandated negotiations underway on services and agriculture, the operation and functioning of the WTO, implementation of existing agreements, and its future work program. The General Council of the WTO, the plenary body consisting of all WTO Members, is responsible for the preparations for the ministerial conference. Members differ, at this point, as to whether Ministers should launch a new round of multilateral trade negotiations, and the content of the WTO's future work program. The General Council will continue its consultations on these issues, without prejudice to various positions of Members, with the aim of achieving a consensus among Members sufficiently in advance of the Doha meeting so as to ensure appropriate preparations.

Further detail on the ongoing WTO work program is set out in two previous requests for public comments related to the WTO published in 2000. These requests are: (1) Public Comments for the Mandated Multilateral Trade Negotiations on Agriculture and Services in the WTO and Priorities for Future Market Access Negotiations on Non-Agricultural Goods, published on March 28, 2000 (Volume 65, Number 60), calling for public comments on general as well as specific negotiating objectives), and (2) Public Comments on Institutional Improvements to the World Trade Organization (WTO), Particularly With Respect to the Transparency of its Operations and Outreach to Civil Society, published on June 8, 2000 (Volume 65, Number 111) calling for proposals for improving the functioning of the WTO, particularly with respect to its outreach activities and the transparency of its operations including dispute settlement). For ease of submission, the TPSC has identified the following headings under which comments may be submitted. Submissions should identify the area or areas subject to comment. These include:

(1) *WTO Built-in Agenda Negotiations on Agriculture and Services.* Supplementary comments are invited on the negotiations currently underway pursuant to the terms of the Uruguay Round agreements that provide for further negotiations in the areas of agriculture and services. A TPSC solicitation of public comments was published on March 28, 2000, as noted above. New comments are welcome, but comments submitted pursuant to the previous notice need not be resubmitted.

(2) *Non-agricultural/Industrial Market Access.* Comments on market access supplementing those submitted in connection with the March 28, 2000 request for public comment are invited. The mandated negotiations referred to above address market access for agricultural goods from Chapters 1–25 of the Harmonized Tariff Schedule, as specified by the WTO Agreement on Agriculture. There is a growing convergence of views among WTO members that further negotiations on non-agricultural or industrial market access are desirable. New comments are welcome, but comments submitted pursuant to the earlier notice need not be resubmitted.

(3) *Existing Agreements and Work Programs.* Comments are requested regarding U.S. priorities under the other Agreements concluded in the Uruguay Round. Particular attention should be given to the improvements, if any, that might be sought through expansion of individual work programs, or through

negotiations in any of these areas, or further progress with respect to implementation of these Agreements. For a complete list of WTO Agreements, Committees and their work programs, see USTR's 2000 Annual Report, available at *http://www.ustr.gov.*

(4) *Development and Related Issues.* Comments are requested on ways to facilitate the participation of poorer, less advanced and least developed countries in the WTO, including making the WTO more responsive to development concerns raised as a result of the debate on globalization. Comments should take into account work that has been conducted to integrate the technical assistance provided by various international organizations, including the WTO. Areas for comment could include provision of additional capacity building and market access opportunities, the possible graduation of countries from preference programs, the broader issue of integrating trade into poverty reduction strategies with other institutions, and enhancing the work of the WTO with other international institutions such as the IMF, IBRD, UNCTAD, ILO and UNEP, to be more responsive to the development needs of WTO Members.

(5) *Systemic Issues/Institutional Reform.* Comments are requested on the institutional issues raised regarding the WTO in terms of its openness and accountability, including its outreach to citizens and in dispute settlement. The United States continues to seek institutional improvements to the WTO, while preserving its intergovernmental nature. For example, the United States has consistently called for the WTO to build upon past progress by: (i) Expanding the range of WTO documents available to the public; (ii) strengthening the guidelines for consultations with non-governmental organizations (NGOs); (iii) enhancing the WTO's program of symposia and consultations on specific topics of mutual interest; (iv) expanding and improving the use of Internet facilities to reach more stakeholders in more creative ways; and (v) broadening the range of WTO meetings and events that would be open to the public. Another area of interest relates to relations among WTO Members and improvements to internal consultative processes, including the establishment of new institutional arrangements within the WTO that would build upon the general practice of operating on the basis of a consensus of all Members.

(6) *Singapore Work Program Issues (Investment, Competition, Transparency in Government Procurement and Trade Facilitation) and Electronic Commerce.* Comments are requested with respect to next steps on issues added to the WTO's agenda at the 1996 and 1998 Ministerial Meetings in Singapore and Geneva, respectively. Comments should address the nature, objectives and direction of any further work to be undertaken with respect to the issues raised in the context of the work of the working groups established on trade and investment, trade and competition policy, transparency in government procurement, the exploratory work undertaken by the WTO to assess the scope for WTO rules in the area of trade facilitation, and the work program on e-commerce. Some WTO Members have suggested negotiations on these points, and the TPSC welcomes views on the desirability of such negotiations. Working groups on investment, competition and transparency in government procurement continue to operate. With respect to transparency in government procurement, Members have agreed to identify the elements of a possible agreement, but have not yet agreed to move to conclude such an agreement.

(6) *Other Issues.* Comments are welcome on other issues that respondents believe would be appropriate to raise with respect to the future work program of the WTO. The TPSC's aim is to be as inclusive as possible in providing opportunity for public comment with respect to the ministerial agenda and objectives.

Written Comments

Submitters need not duplicate submissions provided in response to the March 28, 2000 solicitation regarding objectives for the mandated negotiations in agriculture and services and potential industrial market access negotiation, nor the June 8, 2000 submissions related to transparency. Persons submitting written comments should provide twenty (20) copies no later than May 10, 2001 to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508. Written comments submitted in connection with this request, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6, will be available for public inspection in the USTR Reading Room, in Room 3 of the annex of the Office of the United States Trade Representative, 1724 H Street, Northwest, Washington, DC. An appointment to review the file may be made by calling Brenda Webb at 202–395–6186. The Reading Room is open to the public from 10–12 and from 1–4, Monday through Friday.

Business confidential information will be subject to the requirements of 15 CFR 2003.6. If the submission contains business confidential information, it must be accompanied by twenty copies of a public version that does not contain business confidential information. A justification as to why the information contained in the submission should be treated confidentially must be included with the submission. In addition, any submissions containing business confidential information must be clearly marked ''Confidential'' at the top and bottom of the cover page (or letter) and each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked at the top and bottom of each page ''Public Version'' or ''Non-Confidential.''

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–8384 Filed 4–4–01; 8:45 am]

BILLING CODE 3190–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9284]

Coast Guard Advisory to Recreational Boaters on Fuel Leak Hazard Involving Evinrude FICHT 200 Horsepower and 225 Horsepower Outboard Motors

AGENCY: Coast Guard, DOT.

ACTION: Consumer advisory notice.

SUMMARY: The purpose of this notice is to alert owners and operators of boats powered by 1999 or 2000 Evinrude FICHT 200 horsepower and 225 horsepower outboard motors about a fuel leak problem that causes a potential fire and explosion hazard. There is evidence that fuel leaks affecting these outboard models have resulted in fires and explosions that, in some cases, caused personal injuries. The Coast Guard advises owners and operators to cease using 1999 or 2000 Evinrude FICHT 200 horsepower and 225 horsepower outboard motors until such time as the defect is corrected. Normally, the Coast Guard would notify the Outboard Motor Company (OMC), the Evinrude outboard manufacturer, of the need to conduct a safety recall of the defective motors. However, OMC filed for bankruptcy in December 2000, and the Evinrude engine line has since been purchased by Bombardier Motor Corporation of America. Bombardier has accepted responsibility for the recall and will be notifying affected outboard owners of the recall in the near future.

Bombardier reports that several thousand of the affected outboards have previously been corrected by OMC through the installation of an upgrade kit. The Coast Guard warns all boaters that there is a serious danger of a fire or explosion with continued use of uncorrected 1999 and 2000 model year Evinrude FICHT 200 horsepower and 225 horsepower outboard motors that could result in serious injury or death.

FOR FURTHER INFORMATION CONTACT: Philip Cappel, Chief, Recreational Boating Product Assurance Division, Commandant (G–OPB–3), 2100 Second Street SW., Washington, DC 20593, telephone (202) 267–0988, e-mail *pcappel@comdt.uscg.mil.* The docket, USCG–2001–9284, is available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

SUPPLEMENTARY INFORMATION: The Coast Guard recently learned that in November 2000 the Outboard Marine Corporation sent a ''service upgrade bulletin'' to its Evinrude outboard motor dealers concerning the company's 1999 and 2000 model year 200 and 225 horsepower models. The upgrade was intended to ''reduce the likelihood of fuel leaks, which can be a potentially hazardous condition.'' After further investigation, the Coast Guard learned that between July 1999 and December 2000 OMC had received reports of an unacceptably high number of fires and explosions involving the company's 1999 and 2000 model year Evinrude FICHT 200 and 225 horsepower models.

The Coast Guard has the legal authority to require manufacturers of boats and engines to notify owners and to recall and repair or replace products that contain defects which create a substantial risk of personal injury to the public, or which fail to comply with an applicable U.S. Coast Guard safety standard. The Coast Guard has determined that the problems involving the 1999 and 2000 model year Evinrude FICHT 200 and 225 horsepower motors constitute a defect that creates a substantial risk of injury to the public. Under normal circumstances, the Coast Guard would notify OMC that a safety recall was necessary and would pursue the correction of this defect via OMC. However, OMC filed for bankruptcy in federal court in December 2000 and has since sold its Evinrude and Johnson outboard engine lines to Bombardier Motor Corporation of America. Bombardier has agreed to accept responsibility for this recall and will be notifying affected Evinrude owners in the near future. Bombardier reports that they intend to distribute upgrade kits to dealers that will correct this problem and that several thousand of the affected outboards have previously been corrected by OMC through the installation of these upgrade kits.

The Coast Guard warns all boaters that there is a serious danger of a fire or explosion with continued use of uncorrected 1999 and 2000 model year Evinrude FICHT 200 horsepower and 225 horsepower outboard motors that could result in serious injury or death.

Authority: 46 U.S.C. 4310(e).

Dated: March 29, 2001.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 01–8311 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9268]

Commercial Fishing Industry Vessel Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) will meet to discuss various issues relating to commercial vessel safety in the fishing industry. The meetings are open to the public.

DATES: CFIVAC will meet on Wednesday, May 2, 2001, from 9 a.m. to 5 p.m and May 3, 2001, from 9 a.m. to 5 p.m. The meeting may close early if all business is finished. Requests to make oral presentations should reach the Coast Guard on or before April 16, 2001. Written material for distribution at the meeting should reach the Coast Guard on or before April 23, 2001. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before April 9, 2001.

ADDRESSES: CFIVAC will meet in the Doubletree Hotel, 1230 Congress Street, Portland, ME. Send written material and requests to make oral presentations to Captain Jon Sarubbi, Commandant (G–MOC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Captain Jon Sarubbi, Executive Director of CFIVAC, or Lieutenant Commander Jennifer Williams, Assistant to the Executive Director, telephone (202) 267–0507, fax (202) 267–0506.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda includes the following:

(1) Introduction, recognition of committee members achievements, and approval of last meeting's minutes.

(2) Tour of Portland's fishing piers and fish auction.

(3) Status report from the Coast Guard on legislative change proposal process and regulatory projects with respect to mandatory exams, training requirements, stability requirements, and immersion suit requirements.

(4) Presentation by the Coast Guard on ''Operation Safe Crab'' conducted in the Thirteenth Coast Guard District.

(5) Presentation by LCDR Jennifer Lincoln, NIOSH, on prevention studies conducted by NIOSH.

(6) Presentation of Portland, ME, concept for a safety training center for fishermen.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than April 16, 2001. Written material for distribution at the meeting should reach the Coast Guard no later than April 23, 2001. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Executive Director no later than April 9, 2001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Executive Director as soon as possible.

Dated: March 27, 2001.

J.P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–8310 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–9269]

Guidelines for Assessing a Merchant Mariner's Proficiency through Demonstrations of Skills as an Officer in Charge of an Engineering Watch in a Manned Engine Room or as a Designated Duty Engineer in a Periodically Unmanned Engine Room

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when a mariner demonstrates his or her competence as an officer in charge of an engineering watch in a manned engine room or as a designated duty engineer in a periodically unmanned engine room. A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) developed and recommended measures for this proficiency. The Coast Guard has adapted the measures recommended by MERPAC.

DATES: Comments and related material must reach the Docket Management Facility on or before June 4, 2001.

ADDRESSES: Please identify your comments and related material by the docket number of this rulemaking [USCG 2001–9269]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Facility maintains the public docket for this Notice. Comments and related material received from the public, as well as documents mentioned in this Notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

The measures proposed here are available on the Internet at *http://dms.dot.gov.* They are also available from Mr. Mark Gould, Maritime Personnel Qualifications Division, Office of Operating and Environmental Standards, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, telephone 202–267–0229.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice or on the national performance measures proposed here, write or call Mr. Gould where indicated under **ADDRESSES.** For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

What Action Is the Coast Guard Taking?

Table A–III/1 of the STCW Code accompanying the treaty on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995, articulates qualifications for proficiency as an officer in charge of an engineering watch in a manned engine room or as a designated duty engineer in a periodically unmanned engine room. The Coast Guard tasked MERPAC with referring to the Table, modifying and specifying it as it deemed necessary, and recommending national performance measures. The Coast Guard has adapted the measures recommended by MERPAC and is proposing them now for use as guidelines when assessing a mariner's competence (manifest knowledge, understanding, and proficiency, or, in the jargon, ''KUP'') as an officer in charge of an engineering watch in a manned engine room or as a designated duty engineer in a periodically unmanned engine room.

Here follow the four Functions that a mariner must demonstrate to qualify as an officer in charge of an engineering watch in a manned engine room or as a designated duty engineer in a periodically unmanned engine room, with an example of a Performance Condition, a Performance Behavior, and five Performance Criteria for one of the four.

Four Functions (all at the operational level): Marine engineering; Electrical, electronic, and control engineering; Maintenance and repair; and Controlling the operation of the ship and care for persons on board.

Under the Function of ''Marine Engineering at the operational level'' (and under the competence of ''Use appropriate tools for fabrication and repair operations typically performed on ships,'' and under the KUP of ''Characteristics and limitations of materials used in construction and repair of ships and equipment'') the sole Performance Condition is: ''In a workshop [or] laboratory or other safe working environment, given proper tools, lighting, ventilation, and a thin steel plate of no less than ¼ inch thickness, * * *''. This calls for, in the case of this Condition, a single Performance Behavior.

The Performance Behavior for the same Function and Condition is: ''[T]he candidate will plan, prepare and safely cut a [3-inch] circular hole in the plate using oxyacetylene process and describe actions as they are being performed.'' This Behavior calls for five Performance Criteria.

The Performance Criteria for the same Behavior are: ''(1) The plan and layout of the job are correct, [are] in proper sequence, and incorporate all safety considerations; (2) All required equipment is set up and job is properly laid out; (3) The hole is cut according to plan and within tolerance of [plus or minus] ⅛ inch; (4) Actions being executed are described correctly as they are being performed; [and] (5) No safety violations are observed.''

If the mariner properly meets all of the Performance Criteria, he or she passes the practical demonstration. If he or she fails to properly carry out any of the Criteria, he or she fails the demonstration.

Why Is the Coast Guard Taking This Action?

The Coast Guard is taking this action to comply with STCW, as amended in 1995 and 1997 and incorporated into domestic law at 46 CFR parts 10, 12, and 15 in 1997 and since. Guidance from the International Maritime Organization on shipboard assessments of proficiency suggests that Parties develop standards and measures of performance for practical tests as part of their programs for training and assessing seafarers.

How May I Participate in This Action?

You may participate in this action by submitting comments and related material on the national performance measures proposed here. (Although the Coast Guard does not seek public comment on the measures recommended by MERPAC, as distinct from the measures proposed here, those measures are available on the Internet at the Homepage of MERPAC, *http://www.uscg.mil/hq/g-m/advisory/merpac/*

merpac.htm.) The measures proposed here, again, are available on the Internet at *http://dms.dot.gov*. They are also available from Mr. Gould where indicated under **ADDRESSES.** If you submit written comments please include—

- Your name and address;
- The docket number for this Notice [USCG 2001–9269];
- The specific section of the performance measures to which each comment applies; and
- The reason for each comment.

You may mail, deliver, fax, or electronically submit your comments and related material to the Docket Management Facility, using an address or fax number listed in **ADDRESSES.** Please do not submit the same comment or material more than once. If you mail or deliver your comments and material, they must be on 8½-by-11-inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and material and would like to know whether the Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the 60-day comment period.

Once we have considered all comments and related material, we will publish a final version of the national performance measures for use as guidelines by the general public. Individuals and institutions assessing the competence of mariners may refine the final version of these measures and develop innovative alternatives. If you vary from the final version of these measures, however, you must submit your alternative to the National Maritime Center for approval by the Coast Guard under 46 CFR 10.303(e) before you use it as part of an approved course or training program.

Dated: March 28, 2001.

Howard L Hime,

Acting Director of Standards.

[FR Doc. 01–8313 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Merced County, CA

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Merced County, California.

FOR FURTHER INFORMATION CONTACT: Glenn Clinton, Team Leader, Program Delivery Team—North, California Division, Federal Highway Administration, 980 9th Street, Suite 400, Sacramento, CA 95814–2724.

SUPPLEMENTARY INFORMATION: The Federal Highways Administration, in coordination with the California Department of Transportation (Caltrans), will prepare an Environmental Impact Statement (EIS) on a proposal to build a bypass in the vicinity of the City of Los Banos in Merced County, California, in order to improve the flow of traffic on State Route 152 and reduce congestion within the city. This bypass would begin at Post Mile 16, east of Volta Road, and end approximately at Post Mile 25. State Route 152 serves as a major east-west link between the major north-south roadways of State Route 99, State Route 101, and Interstate 5. Currently the flow of traffic along State Route 152 must slow as it enters the City of Los Banos. Because State Route 152 currently passes through the center of the City of Los Banos, considerable traffic congestion would be relieved by construction of a bypass around the City. The proposed project is a 4-lane freeway on a 6-lane alignment.

Four alternatives are being considered at this time: three build alternatives and a No Action Alternative (Alternative 4). All build alternatives would realign State Route 152 so that the route would bypass the City of Los Banos. Alternatives 1 and 2 would follow an alignment south of the City of Los Banos. Alternative 1 would parallel north of Copa De Ora Avenue and Alternative 2 would parallel south of Pioneer Road. Alternative 3 would follow an alignment to the north of the City of Los Banos.

Letters describing the proposed action and soliciting comments were sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed or are known to have interest in this proposal. The Public Participation Program for this study includes community information meetings (the first was held August 24, 2000), and a formal Public Hearing in the summer of 2002.

To ensure that the full range of issues related to this proposed action is addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. If you have any information regarding historic resources, endangered species, or other sensitive issues, which could be affected by this project, please notify this office. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 29, 2001.

Glenn Clinton,

Team Leader, Program Delivery Team—North, Sacramento, California.

[FR Doc. 01–8412 Filed 4–4–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 29, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 7, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0004.

Form Number: IRS Form SS–8.

Type of Review: Extension.

Title: Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

Description: Form SS–8 is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses this information to make the determination.

Respondents: Business or other for-profit; Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeeper: 69,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—22 hr., 0 min.
Learning about the law or the form—47 min.
Preparing and sending the form to the IRS—1 hr., 11 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 165,462 hours.

OMB Number: 1545–0008.

Form Number: IRS Forms W–2, W–2c, W–2AS, W–2GU, W–2VI, W–3, W–3c, W–3cPR, W–3SS.

Type of Review: Extension.

Title: Wage and Tax Statements W–2/W–3 Series.

Description: Employers report income and withholding on Form W–2. Forms W–2AS, W–2GU and W–2VI are the United States possessions versions of Form W–2. The Form W–3 series is used to transmit Forms W–2 to the Social Security Administration (SSA). Forms W–2C, W–3c and W–3cPR are used to correct previously filed Forms W–2, W–3 and W–3cPR. Individuals use Form W–2 to prepare their income tax returns.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 5,882,789.

Estimated Burden Hours Per Respondent:

Form	Response (minutes)
W–2	30
W–2c	51
W–2AS	23
W–2GU	24
W–2VI	24
W–3	29
W–3c	22
W–3cPR	30
W–3PR	27
W–3SS	24

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–0057.

Form Number: IRS Form 1024.

Type of Review: Extension.

Title: Application for Recognition of Exemption Under Section 501(a).

Description: Organizations seeking exemption from Federal Income tax under Internal Revenue Code section 501(a) as an organization described in most paragraphs of section 501(c) must use Form 1024 to apply for exemption. The information collected is used to determine whether the organization qualifies for tax-exempt status.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeeper: 4,718.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/schedule	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
1024, Parts I–III	53 hr., 5 min	2 hr., 17 min	3 hr., 15 min.
Part IV	1 hr., 12 min	35 min	52 min.
Schedule A	2 hr., 52 min	18 min	21 min.
Schedule B	1 hr., 40 min	18 min	20 min.
Schedule C	58 min	12 min	13 min.
Schedule D	4 hr., 4 min	18 min	22 min.
Schedule E	1 hr., 40 min	18 min	20 min.
Schedule F	2 hr., 23 min	6 min	8 min.
Schedule G	1 hr., 55 min	6 min	8 min.
Schedule H	1 hr., 40 min	6 min	8 min.
Schedule I	5 hr., 30 min	30 min	37 min.
Schedule J	2 hr., 23 min	6 min	8 min.
Schedule K	3 hr., 21 min	6 min	10 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 291,542 hours.

OMB Number: 1545–0582.

Form Number: IRS Form 1139.

Type of Review: Extension.

Title: Corporation Application for Tentative Refund.

Description: Form 1139 is filed by corporations that expect to have a net operating loss, net capital loss, or unused general business credits carried back to a prior tax year. IRS uses Form 1139 to determine if the amount of the loss or unused credits is proper.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeeper: 3,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—26 hr., 33 min.
Learning about the law or the form—3 hr., 37 min.
Preparing the form—8 hr., 52 min.
Copying, assembling, and sending the form to the IRS—1 hr., 20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 121,170 hours.

OMB Number: 1545–1226.

Regulation Project Number: FI–59–89 Final.

Type of Review: Extension.

Title: Proceeds of Bonds used for Reimbursement.

Description: The rules require record maintenance by a state or local government or section 501(c)(3) organization issuing tax-exempt bonds (''Issuer'') to reimburse itself for previously-paid expenses. This recordkeeping will establish that the issuer had an intent, when it paid an expense, to later issue a reimbursement bond.

Respondents: State, Local or Tribal Government, Not-for-profit institutions.

Estimated Number of Recordkeepers: 2,500.

Estimated Burden Hours Per Recordkeeper: 2 hours, 24 minutes.

Estimated Total Recordkeeping Burden: 6,000 hours.

OMB Number: 1545–1572.

Regulation Project Number: REG–120200–97 Final.

Type of Review: Extension.

Title: Election Not to Apply Look-Back Method in De Minimis Cases.

Description: The regulations provide rules for electing the benefits of section 460(b)(6) regarding not applying the look-back method to long-term contracts in de minimis cases.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 4,000 hours.

OMB Number: 1545–1574.

Form Number: IRS Form 1098–T.

Type of Review: Extension.

Title: Tuition Payments Statement.

Description: Section 6050S of the Internal Revenue Code requires eligible education institutions to report certain information regarding tuition payments to the IRS and to students. Form 1098–T has been developed to meet this requirement.

Respondents: Business or other for-profit; Not-for-profit institutions.

Estimated Number of Respondents/Recordkeeper: 7,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 9 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 3,372,585 hours.

OMB Number: 1545–1576.

Form Number: IRS Form 1098–E.

Type of Review: Extension.

Title: Student Loan Interest Statement.

Description: Section 6050S(b)(2) of the Internal Revenue Code requires persons (financial institutions, governmental units, etc.) to report $600 or more of interest paid on student loans to the IRS and the students.

Respondents: Business or other for-profit; Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeeper: 200,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 3 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 525,679 hours.

OMB Number: 1545–1577.

Regulation Project Number: REG–109704–97 NPRM.

Type of Review: Extension.

Title: HIPAA Mental Health Parity Act; Interim Rules for Mental Health Parity (Temporary).

Description: The regulations provide guidance for group health plans with mental health benefits about requirements relating to parity in the dollar limits imposed on mental health benefits and medical/surgical benefits.

Respondents: Business or other for-profit; Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeeper: 7,053.

Estimated Burden Hours Per Respondent/Recordkeeper: 28 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 3,280 hours.

OMB Number: 1545–1579.

Notice Number: Notice 98–1.

Type of Review: Extension.

Title: Nondiscrimination Testing.

Description: This notice provides guidance for discrimination testing under section 401(k) and (m) of the Internal Revenue Code as amended by section 1433(c) and (d) of the Small Business Job Protection Act of 1996. The guidance is directed to employers maintaining retirement plans subject to these Code sections.

Respondents: Business or other for-profit; Not-for-profit institutions.

Estimated Number of Respondents/Recordkeeper: 147,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 20 minutes.

Estimated Total Reporting/Recordkeeping Burden: 49,000 hours.

OMB Number: 1545–1721.

Form Number: IRS Form 8875.

Type of Review: Extension.

Title: Taxable REIT Subsidiary Election.

Description: A corporation and a REIT use Form 8875 to jointly elect to have the corporation treated as a taxable REIT subsidiary as provided in section 856(I).

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeeper: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 hr., 56 min.

Learning about the law or the form—18 min.

Preparing, copying, and sending the form to the IRS—25 min.

Frequency of Response: Other (one-time).

Estimated Total Reporting/Recordkeeping Burden: 7,660 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–8321 Filed 4–4–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–28]

Tuna Fish—Tariff-Rate Quota—The Tariff-Rate Quota for Calendar Year 2001, on Tuna Classifiable Under Subheading 1604.14.20, Harmonized Tariff Schedule of the United States (HTSUS)

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna fish for calendar year 2001.

SUMMARY: Each year, the tariff-rate quota for tuna fish described in subheading 1604.14.20, HTSUS, is based on canned tuna production by the United States for the preceding calendar year. This document sets forth the quota for calendar year 2001.

EFFECTIVE DATES: The calendar year 2001 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Constance Chancey, Chief, Quota/Visa Branch, Trade Programs, Office of Field Operations, U.S. Customs Service, Washington, DC 20229, (202) 927–5399.

Background

It has been determined that 29,553,863 kilograms of tuna may be entered or withdrawn from warehouse for consumption during the calendar year 2001, at the rate of 6 percent ad valorem under subheading 1604.14.20, HTSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under subheading 1604.14.30 HTSUS.

Dated: March 30, 2001.

Charles W. Winwood,

Acting Commissioner.

[FR Doc. 01–8305 Filed 4–4–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

List of Foreign Entities Violating Textile Transshipment and Country of Origin Rules

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act of 1930, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

DATES: This document notifies the public of the semiannual list for the 6-month period starting March 31, 2001, and ending September 30, 2001.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Gregory Olsavsky, Fines, Penalties and Forfeitures Branch, Office of Field Operations, (202) 927–3119. For information regarding any of the legal aspects, contact Willem A. Daman, Office of Chief Counsel, (202) 927–6900.

SUPPLEMENTARY INFORMATION:

Background

Section 333 of the Uruguay Round Agreements Act (URAA) (Public Law 103–465, 108 Stat. 4809) (signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592a), which authorizes the Secretary of the Treasury to publish in the **Federal Register**, on a semiannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition or supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by sections 171.2 and 171.61, Customs Regulations (19 CFR 171.2, 171.61) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 60 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must involve reliance on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

(1) Has the importer had a prior relationship with the named party?

(2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

(3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

(4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?

(5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

(6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

(7) What is the history of this country regarding this commodity?

(8) Have you asked questions of your supplier regarding the origin of the product?

(9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a semiannual publication of the names of the foreign entities and/or persons. On October 18, 2000, Customs published a Notice in the **Federal Register** (65 FR 62409) which identified 24 (twenty-four) entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending March 30, 2001, Customs has identified 23 (twenty-three) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects two new entities and three removals to the 24 entities named on the list published on October 18, 2000. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 23 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 23 foreign parties are as follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Austin Pang Gloves & Garments Factory, Ltd., Jade Heights, 52 Tai Chung Kiu Road, Flat G, 19/F, Shatin, New Territories, Hong Kong. (10/99)

Beautiful Flower Glove Manufactory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 10–16, 4/F, Yuen Long, New Territories, Hong Kong. (10/99)

BF Manufacturing Company, Kar Wah Industrial Building, Leung Yip Street, Flat 13, 4/F, Yeun Long, New Territories, Hong Kong. (10/99)

Ease Keep, Ltd., 750 Nathan Road, Room 115, Kowloon, Hong Kong. (10/99)

Everlast Glove Factory, Goldfield Industrial Centre, 1 Sui Wo Road, Room 15, 15th Floor, Fo Tan, Shatin, New Territories, Hong Kong. (3/99)

Everlite Manufacturing Company, P.O. Box 90936, Tsimshatsui, Kowloon, Hong Kong (3/01).

Excelsior Industrial Company, 311–313 Nathan Road, Room 1, 15th Floor, Kowloon, Hong Kong (9/98)

Fabrica de Artigos de Vestuario E-Full, Lda. Rua Um doi Bairro da Concordia, Deificio Industrial Vang Tai, 8th Floor, A–D, Macau. (10/99)

Fabrica de Artigos de Vestuario Fan Wek Limitada, Av. Venceslau de Morais, S/N 14 B–C, Centro Ind. Keck Seng (Torre 1), Macau. (10/99)

Fabrica de Artigos de Vestuario Pou Chi, Avenida General Castelo Branco, 13, Andar, ''C'' Edificio Wang Kai, Macau. (10/99)

Fairfield Line (HK) Co. Ltd., 60–66 Wing Tai Commer., Bldg. 1/F, Sheung Wan, Hong Kong (3/01).

Glory Growth Trading Company, No.6 Ping Street, Flat 7–10, Block A, 21st Floor, New Trade Plaza, Shatin, New Territories, Hong Kong. (9/98)

G.P. Wedding Service Centre, Lee Hing Industrial Building, 10 Cheung Yue Street 11th Floor, Cheung Sha Wan, Kowloon, Hong Kong. (10/00)

Great Southern International Limited, Flat A, 13th floor, Foo Cheong Building, 82–86 Wing Lok Street, Central, Hong Kong. (9/98)

G.T. Plus Ltd., Kowloon Centre, 29–43 Ashley Road, 4/Fl, Tsimshatsui, Kowloon, Hong Kong. (3/99)

Liable Trading Company, 1103 Kai Tak Commercial Building, 62–72 Stanley Street, Kowloon, Hong Kong. (9/98)

Lucky Mind Industrial Limited, Lincoln Centre, 20 Yip Fung Street, Flat 11, 5/F, Fan Ling, New Territories, Hong Kong. (10/99)

Mabco Limited, 6/F VIP Commercial Centre, 116–120 Canton Road, Kowloon, Hong Kong. (3/99)

McKowan Lowe & Company Limited, 1001–1012 Hope Sea Industrial Centre, 26 Lam Hing Street, Kowloon Bay, Kowloon, Hong Kong. (9/98)

Rex Industries Limited, VIP Commercial Center, 116–120 Canton Road, 11th Floor, Tsimshatsui, Kowloon, Hong Kong. (9/98)

Sannies Garment Factory, 35–41 Tai Lin Pai Road, Gold King Industrial Building, Flat A & B, 2nd Floor, Kwai Chung, New Territories, Hong Kong. (9/98)

Shing Fat Gloves & Rainwear, 2 Tai Lee Street, 1–2 Floor, Yuen Long, New Territories, Hong Kong. (9/98)

Sun Kong Glove Factory, 188 San Wan Road, Units 32–35, 3rd Floor, Block B, Sheung Shui, New Territories, Hong Kong. (9/98)

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Additional Foreign Entities

In the October 18, 2000, **Federal Register** notice, Customs also solicited information regarding the whereabouts of 26 foreign entities, which were identified by name and known address, concerning alleged violations of section 592. Persons with knowledge of the whereabouts of those 26 entities were requested to contact the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

In this document, a new list is being published which contains the names and last known addresses of 11 entities. This reflects the removal of fifteen entities from the list of 26 entities published on October 18, 2000.

Customs is soliciting information regarding the whereabouts of the following 11 foreign entities concerning alleged violations of section 592. Their names and last known addresses are listed below (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Au Mi Wedding Dresses Company, Dragon Industry Building, 98, King Law Street, Unit F, 9/F, Lai Chi Kok, Kowloon, Hong Kong. (10/99)

Fabrica de Artigos de Vestuario Lei Kou, No. 45 Estrada Marginal de Areia Preta, Edif.Ind.Centro Polytex, 6th Floor, D, Macau. (9/98)

Golden Perfect Garment Factory, Wong's Industrial Building, 33 Hung To Road, 3rd Floor, Kwun Tong, Kowloon, Hong Kong. (9/98)

Golden Wheel Garment Factory, Flat A, 10/F, Tontex Industrial Building, 2–4 Sheung Hei Street, San Po Kong, Kowloon, Hong Kong. (10/99)

K & J Enterprises, Witty Commercial Building, 1A–1L Tung Choi Street, Room 1912F, Mong Kok, Kowloon, Hong Kong. (9/98)

Lai Cheong Gloves Factory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 101, 1–F, Yuen Long, New Territories, Hong Kong. (3/00)

Maxwell Garment Factory, Unit C, 21/F, 78–84, Wang Lung Street, Tseun Wan, New Territories, Hong Kong. (3/99)

New Leo Garment Factory Ltd, Galaxy Factory Building, 25–27 Luk Hop Street, Unit B, 18th Floor, San Po Kong, Kowloon, Hong Kong. (9/98)

Penta-5 Holding (HK) Ltd., Metro Center II, 21 Lam Hing Street, Room 1907, Kowloon Bay, Kowloon, Hong Kong. (9/98)

Tak Hing Textile Company Limited, Wo Fung Industrial Building, 3/F, block D, Lot No. 5180, IN D.D 51, On Lok Village, Fanling, New Territories, Hong Kong. (3/99).

Wing Lung Manufactory, Hing Wah Industrial Building, Units 2, 5–8, 4th Floor YLTL 373, Yuen Long, New Territories, Hong Kong. (9/98)

If you have any information as to a correct mailing address for any of the above 11 firms, please send that information to the Assistant Commissioner, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Dated: March 30, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–8304 Filed 4–4–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–952–86]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and temporary regulation, INTL–952–86 (TD 8228), Allocation and Apportionment of Interest Expense and Certain Other Expenses (§§ 1.861–9T, and 1.861–12T).

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation and Apportionment of Interest Expense and Certain Other Expenses.

OMB Number: 1545–1072.

Regulation Project Number: INTL–952–86.

Abstract: Section 864(e) of the Internal Revenue Code provides rules concerning the allocation and apportionment of interest and certain other expenses to foreign source income for purposes of computing the foreign tax credit limitation. These regulations provide for the affirmative election of either the gross income method or the asset method of apportionment in the case of a controlled foreign corporation.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 15,000.

Estimated Time Per Respondent/Recordkeeper: 15 minutes.

Estimated Total Annual Reporting/Recordkeeping Hours: 3,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 29, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8426 Filed 4–4–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1118

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1118, Foreign Tax Credit-Corporations.

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Foreign Tax Credit—Corporations.

OMB Number: 1545–0122.

Form Number: Form 1118.

Abstract: Form 1118 and separate Schedules I and J are used by domestic and foreign corporations to claim a credit for taxes paid to foreign countries. The IRS uses Form 1118 and related schedules to determine if the corporation has computed the foreign tax credit correctly.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30,950.

Estimated Time Per Respondent: 131 hours, 32 minutes.

Estimated Total Annual Burden Hours: 4,071,298.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 29, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8427 Filed 4–4–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Publication of Inflation Adjustment Factor, Nonconventional Source Fuel Credit, and Reference Price for Calendar Year 2000

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Publication of the inflation adjustment factor, nonconventional source fuel credit, and reference price for calendar year 2000 as required by section 29 of the Internal Revenue Code (26 U.S.C. section 29). The inflation adjustment factor, nonconventional source fuel credit, and reference price are used in determining the tax credit allowable on the sale of fuel from nonconventional sources under section 29 during calendar year 2000.

DATES: The 2000 inflation adjustment factor, nonconventional source fuel credit, and reference price apply to qualified fuels sold during calendar year 2000.

FOR FURTHER INFORMATION CONTACT: For questions about how the inflation adjustment factor is calculated—Thomas A. Thompson, N:ADC:R:R:SMB, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone Number (202) 874–0585 (not a toll-free number).

For all other questions about the credit or the reference price—David H. McDonnell, CC:PSI:7, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone Number (202) 622–3120 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Inflation Adjustment Factor: The inflation adjustment factor for calendar year 2000 is 2.0454.

Credit: The nonconventional source fuel credit for calendar year 2000 is $6.14 per barrel-of-oil equivalent of qualified fuels.

Reference Price: The reference price for calendar year 2000 is $26.73. Because this reference price does not exceed $23.50 multiplied by the inflation adjustment factor, the phaseout of credit provided for in section 29(b)(1) does not occur for any qualified fuels sold during calendar year 2000.

Dated: March 29, 2001.

Paul F. Kugler,

Associate Chief Counsel (Passthroughs and Special Industries).

[FR Doc. 01–8429 Filed 4–4–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of The Florida Citizen Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Florida Citizen Advocacy Panel will be held in Jacksonville, Florida.

DATES: The meeting will be held Friday, April 27, 2001 and Saturday, April 28, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–423–7973.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday, April 27, 2001 from 6 p.m. to 9 p.m. and Saturday, April 28, 2001 from 9 a.m. to 12 p.m., at The Hilton Jacksonville & Towers, 1201 Riverplace Boulevard, Jacksonville, FL 32207. The public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–423–7973, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd. Rm. 225, Sunrise, FL 33351, or e-mail firstcapsfl@mindspring.com. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–423–7973, or e-mail firstcapsfl@mindspring.com.

The agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: March 30, 2001.

Cathy VanHorn,

Director, Citizen Advocacy Panel (CAP) Communication and Liaison.

[FR Doc. 01–8428 Filed 4–4–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 66, No. 66
Thursday, April 5, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administrtation

[Summary Notice No. PE-2001-25]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

Correction

In notice document 01–7501 beginning on page 16701 in the issue of Tuesday, March 27, 2001, make the following correction:

On page 16702, in the first column, thirteen lines from the bottom ''*Grant, 03/08/2001*'' should read ''*Denial, 03/08/2001*''.

[FR Doc. C1–7501 Filed 4–4–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
April 5, 2001

Part II

Environmental Protection Agency

40 CFR Parts 51 and 85
Amendments to Vehicle Inspection Maintenance Program Requirements Incorporating the Onboard Diagnostic Check; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 85

[FRL–6962–9]

RIN 2060–AJ03

Amendments to Vehicle Inspection Maintenance Program Requirements Incorporating the Onboard Diagnostic Check

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action revises the Motor Vehicle Inspection/Maintenance (I/M) requirements to: extend the deadline for beginning onboard diagnostic (OBD) inspections from January 1, 2001 to January 1, 2002; allow areas showing good cause up to an additional 12 months' delay; allow for a one-time-only, one-cycle phase-in period for the OBD–I/M check; revise and simplify the failure criteria for the OBD–I/M check; address State Implementation Plan (SIP) credit modeling for the OBD–I/M check; and, allow for limited exemptions from some OBD check failure and rejection criteria for certain model year vehicles. Today's action also provides additional flexibility to state I/M programs by allowing such programs to suspend traditional I/M tests on model year (MY) 1996 and newer, OBD-equipped vehicles provided such vehicles are subject to a check of the OBD system. Lastly, this action provides EPA's guidance regarding certain discretionary elements associated with the successful implementation of the OBD check in an I/M environment.

DATES: This rule will take effect May 7, 2001.

ADDRESSES: Materials relevant to this rulemaking are contained in Public Docket No. A–2000–16. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall SW., Washington, DC 20460. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: David Sosnowski, Office of Transportation and Air Quality, Transportation and Regional Programs Division, 2000 Traverwood, Ann Arbor, Michigan, 48105. Telephone (734) 214–4823.

SUPPLEMENTARY INFORMATION:

II. Summary of Rule

Under the Clean Air Act as amended in 1990, 42 U.S.C. 7401 *et seq.*, states required to implement vehicle inspection and maintenance (I/M) programs were further required to incorporate a check of the onboard diagnostic (OBD) computer as part of those programs. On November 5, 1992, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** (40 CFR part 51, subpart S) a rule related to state air quality implementation plans for I/M programs (hereafter referred to as the I/M rule; see 57 FR 52950). At the time the 1992 rule was published, certification regulations for OBD had not been finalized, and so EPA reserved space in the I/M rule to address OBD–I/M requirements at some later date. Since 1992, EPA has twice amended the I/M rule to address various aspects of the OBD–I/M check—first, on August 6, 1996, and again on May 4, 1998. EPA is taking action today to further amend the I/M rule and OBD testing requirements to provide states with the greater flexibility they need to better meet local needs, to update requirements based upon technological advances, and to optimize program efficiency and cost effectiveness.

Today's action will: (1) Extend the current deadline for mandatory implementation of the OBD–I/M inspection from January 1, 2001 to January 1, 2002; (2) allow states that show good cause to postpone program start for up to an additional 12 months (i.e., January 1, 2003); (3) allow I/M programs a one-test-cycle phase-in period for the OBD–I/M check during which OBD-failing vehicles will only be required to be repaired if the vehicle also fails a tailpipe emission test; (4) clarify that I/M programs may (at their discretion) use periodic checks of the OBD system on model year (MY) 1996 and newer OBD-equipped vehicles in lieu of (as opposed to in addition to) existing exhaust and evaporative system purge and fill-neck pressure tests on those same vehicles;[1] (5) establish the interim modeling methodology to be used by states in their State Implementation Plans (SIPs) to account for the inclusion of the OBD–I/M check into their existing I/M networks, such method to be used prior to mandatory use of the MOBILE6 emission factor model as well as subsequent iterations of EPA's mobile source emission factor model; (6) revise and simplify the current list of Diagnostic Trouble Codes (DTCs) that constitute the OBD–I/M failure criteria to include any DTC that leads to the dashboard Malfunction Indicator Light (MIL) being commanded on; and (7) provide states the opportunity to exempt certain model year, OBD-equipped vehicles from a limited number of readiness code rejection criteria, with the number of readiness exemptions allowed varying by model year.

The goal of today's action is to update and streamline requirements and to remove regulatory obstacles that would impede the effective implementation of the OBD–I/M testing required of all OBD–I/M programs under the Clean Air Act as amended in 1990. By extending the deadline by which states must begin implementation of OBD–I/M inspections and by also allowing a phase-in period for those inspections, EPA hopes to provide states the time necessary to better educate both the public and the testing and repair industries regarding this important emission control technology, and to reduce the potential for start-up difficulties. EPA also hopes to help states maximize the efficiency and cost effectiveness of their I/M programs by allowing them to streamline the overall testing process with regard to MY 1996

[1] It is important to note that OBDII technology is only required on MY 1996 and newer vehicles and therefore the OBD–I/M check is not an option for MY 1995 and older vehicles. For this and other reasons, tailpipe programs and capacity will be needed for some time to come.

and newer, OBD-equipped vehicles. EPA also wants to make clear that states that wish to begin implementation of the OBD–I/M check earlier than the deadline(s) established by this action are encouraged to do so and may claim credit for the check immediately (per the methodology described under ''OBD–I/M Credit Modeling'').

It should be pointed out that it is not the goal of this action to provide comprehensive guidance on how to successfully implement OBD–I/M testing in an I/M program. Separate guidance addressing the non-regulatory aspects of OBD–I/M implementation will be released in conjunction with today's action and made available to the public via EPA's web site and by request to the **FOR FURTHER INFORMATION CONTACT** person listed above.

Today's action is based upon EPA's findings gathered during three separate OBD–I/M pilot studies, which focused on the following aspects of OBD–I/M testing: (1) OBD's effectiveness as compared to existing exhaust emission testing; (2) OBD's effectiveness as compared to existing evaporative system testing; and (3) the unique implementation issues associated with incorporating checks of the OBD system into a traditional I/M setting. Elements of today's action are also based upon the comments EPA received in response to the September 20, 2000 notice of proposed rulemaking (NPRM) associated with today's action (see 65 FR 56844) as well as on recommendations made by the OBD Workgroup of the Mobile Source Technical Review Subcommittee established under the Federal Advisory Committee Act (FACA). All public comments, EPA's responses to those comments not addressed here, the results of EPA's pilot studies, and the FACA workgroup recommendations can be found in the docket for this action (Public Docket No. A–2000–16). The detailed basis for each amendment was explained in the September 20, 2000 proposal and will not be repeated here except as appropriate in response to comments.

III. Authority

Authority for today's action is granted to EPA by sections 182, 202, 207, and 301 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*).

IV. Public Participation

Written comments on the September 20, 2000 NPRM were received from 14 sources prior to the close of the public comment period on October 20, 2000, including two requests for an extension of the comment period. In response to these requests for an extension, on October 30, 2000, the public comment period was re-opened for 14 days, and closed again on November 13, 2000. Between October 20, 2000 and November 13, 2000, an additional 35 sets of comments were received. In addition to the comments received during the official comment period, EPA also received late comments from three sources—two sets from commenters that had not submitted comments during either comment period, and a third amending comments previously submitted. The commenters fell into five main categories: individual states and state organizations (24 sets of comments); automotive manufacturing, fuel, and service industries (eight sets of comments); the I/M testing and equipment industries (six sets of comments); environmental and health interests (two sets of comments); and private citizens (12 sets of comments). The state comments included two state organizations—the Northeast States for Coordinated Air Use Management (NESCAUM) and State and Territorial Air Pollution Program Administrators/ Association of Local Air Pollution Control Officials (STAPPA/ALAPCO)—as well as comments from 20 state environmental agencies (Oregon, New Jersey, Illinois, New Hampshire, Vermont, Wisconsin, Utah, North Carolina, Missouri, Pennsylvania, Connecticut, Colorado, Texas, Georgia, Massachusetts, Alaska, Maryland, California, New York, and Rhode Island). The commenters from the automotive industry included: Alliance of Automobile Manufacturers (AAM); Association of International Automobile Manufacturers (AIAM); Automotive Parts and Service Alliance (APSA); Motor and Equipment Manufacturers Association (MEMA); Ethyl Corporation (Ethyl); Mitsubishi Motors of America (Mitsubishi); National Automobile Dealers Association (NADA); American Automobile Association (AAA); and Automotive Service Association (ASA). Commenters for the I/M testing industry were represented by: SPX Corporation (SPX); Environmental System Products, Incorporated (ESP); Applied Analysis (AA); Waekon Corporation (Waekon); and Donald Stedman (an inventor of remote sensing devices for assessing vehicle emissions). Environmental and public health interests were represented by the American Lung Association which submitted both individual comments and also took the lead in submitting a separate letter of comment co-signed by 18 other local health and environmental organizations. Of the comments received from private citizens, nine were to transmit and/or support an editorial by Donald Stedman opposing OBD–I/M testing and EPA's proposal which appeared in the November 6, 2000 issue of The Rocky Mountain News. The remaining comments from private citizens were either not directly relevant to the specific issues raised in this rulemaking, or were used to take issue with individual I/M programs in individual states (specifically, Pennsylvania and Colorado).

Because of the extensive (and wide-ranging) nature of the comments received, EPA has prepared a separate, ''Response to Comments'' document which can be found in the docket for this rulemaking (Public Docket No. A–2000–16) as well as online at: www.epa.gov/otaq/regs/im/obd/obd-im.htm. In today's action, EPA will summarize and respond to those major comments submitted during the comment period which were directly responsive to specific, major elements of the September 20, 2000 NPRM.[2] Comments which came in after the deadline for public comment, address specific aspects of the Technical Support Document (TSD) for this action, or which deal with broader issues related to the general subjects touched upon in the rulemaking (i.e., I/M- and OBD-related issues, generally) but which do not focus on specific elements of the proposal will be addressed in the separate ''Response to Comments'' document.

A. Extension of the Implementation Deadline

1. Summary of Proposal

The current I/M rule established January 1, 2001 as the deadline by which all areas required to implement I/M program(s) under the Clean Air Act as amended in 1990 were to begin testing and failing MY 1996 and newer, OBD-equipped vehicles based upon a scan of emission control monitoring information stored in the vehicle's onboard computer. In its September 20, 2000 NPRM, EPA proposed to extend the deadline for passing and failing MY 1996 and newer, OBD-equipped vehicles based upon mandatory OBD–I/M inspections to January 1, 2002. EPA also solicited comment on whether a slightly longer delay is necessary, given the states' possible need to revise rules, software, test

[2] The September 20, 2000 NPRM also included a technical amendment which drew three comments in support and no negative public comment. That amendment and the comments associated with it are addressed in the separate ''Response to Comments'' document associated with today's action.

procedures, and SIPs to address the proposed amendments, asking in particular that states consider the role that public outreach and technician training will play in their preparation for OBD–I/M testing.

2. Summary of Comments

Of the comments received, only one state (Oregon) opposed delaying the start-up of mandatory OBD–I/M inspections beyond the current deadline of January 1, 2001. In its comments, the State expressed concern over changing OBD–I/M deadlines, and the difficulty that this has created for the State in trying to decide whether to move forward with OBD–I/M. Oregon further pointed out that it is required by State statute to justify any environmental requirement that is more stringent than EPA requirements. In addition to Oregon, one private citizen, responding to comments made by his home state regarding the need for a delay beyond 2002, voiced his opposition for delaying start-up of OBD–I/M inspections beyond 2001. This commenter also argued against states claiming that they cannot begin OBD–I/M inspections before EPA's latest deadline, based upon statutes that bar state regulations from being ''more stringent'' than required by Federal government, pointing out that switching to OBD–I/M inspections as soon as possible can be considered to save both time and money (in this commenter's opinion).

Of the nine commenters that supported the proposed delay to January 1, 2002 but explicitly opposed delays beyond that date, five were state environmental agencies (Illinois, Vermont, Wisconsin, Utah, and Alaska), four represented the automotive industry (AAM, APSA, AIAM, and NADA), and one represented the I/M testing industry (SPX). Among the reasons given for opposing delays beyond 2002 was that it penalizes and/or hinders states that start OBD–I/M inspections early and is not justified for outreach reasons because training and outreach materials have already been developed and are available to the states. In its comments, SPX indicated that further delays were unnecessary because I/M testing equipment sold to states like California, New York, Pennsylvania, Virginia, New Jersey, Massachusetts, Georgia, and Rhode Island are already equipped to perform OBD–I/M inspections and merely require a simple software switch to enable that capability. Alaska requested that the final rule clarify that states that choose to do so may begin OBD–I/M inspections before the mandatory deadline, and NADA recommended that EPA provide incentives for early start-up, perhaps by offering more SIP credit for OBD–I/M inspections under the MOBILE5 emission factor model than was proposed in the September 20, 2000 NPRM.

Six commenters supported a more generic delay in implementing the OBD–I/M inspection without specifying a specific date. These commenters included four state environmental agencies (New York, Massachusetts, Georgia, and Maryland), the American Lung Association (ALA), and the American Automobile Association (AAA). Among the states, New York supported additional time for implementation if states demonstrated a good faith effort toward implementing the OBD–I/M inspection. Maryland suggested it would support delays beyond 2002 in particular to allow more data to be gathered regarding the effectiveness of OBD–I/M inspections and to allow states more time to revise their regulations. Georgia indicated that it supported an additional, optional delay to allow states more flexibility and to not over-burden equipment manufacturers. The ALA indicated that it might support delays beyond 2002 if states indicated it was needed and to provide more time for outreach efforts, while the AAA, citing its prior experience with consumer complaints during the early stages of I/M implementation, recommended that the OBD–I/M inspection be delayed ''until it is clear that motorists will no longer be unnecessarily burdened and frustrated.''

Among the 10 commenters supporting delays beyond 2002 were two state organizations (NESCAUM and STAPPA/ALAPCO), and eight individual state environmental agencies (Pennsylvania, Texas, Connecticut, Missouri, North Carolina, Rhode Island, New Hampshire, and New Jersey). Of the two state organizations recommending extensions beyond the proposed deadline of January 1, 2002, STAPPA/ALAPCO proposed the more modest extension of July 1, 2002 for states making a good faith effort toward implementation. Of the individual states supporting an extension beyond January 1, 2002, four (North Carolina, Missouri, Connecticut, and Texas) either supported STAPPA/ALAPCO's recommendation explicitly, or in spirit. Connecticut indicated that a delay to July 2002 is desirable to the State because it coincides with the expiration date for the State's current I/M contract.

The second state organization advocating delays beyond January 1, 2002—NESCAUM—took a hybrid approach, supporting retention of the proposed 2002 start date for areas without pre-existing I/M programs while proposing a start date of January 1, 2005 for areas with existing I/M programs to allow for a more gradual transition to OBD–I/M testing (citing prior bad experiences with rushing implementation of I/M measures) as well as to allow for more experimentation within the programs themselves and to facilitate additional data gathering and public outreach efforts. Three states (New Jersey, New Hampshire, and Rhode Island) indicated their support for the NESCAUM proposal, either by name or by echoing the NESCAUM-proposed deadlines. New Hampshire indicated its intention to begin OBD–I/M inspections in 2001, and stipulated that while it supports the NESCAUM proposal, it does not support delays beyond the dates listed in that proposal. Rhode Island, in turn, indicated its support of the NESCAUM proposal by citing the relative newness of its own I/M program (which started January 2000) as well as the need to amortize equipment costs and its concern that changing the program so soon after start-up could negatively impact the ultimate success of the program.

Taking the middle ground between the STAPPA/ALAPCO and NESCAUM proposals, Pennsylvania proposed delaying implementation of the OBD–I/M inspection requirement until July 2003. The State also raised the issue that some states—like Pennsylvania—cannot be more stringent than Federal regulations as a point for EPA to consider in making its decision. A variation on this theme was suggested by ASA, which recommended that the OBD–I/M inspection be offered on a voluntary basis by 2002 before becoming mandatory in 2003. ASA suggested that the additional time could be used to gather more data to resolve assorted issues related to the implementation of OBD–I/M inspections and to do more in the area of public outreach.

Lastly, two commenters—ESP and its consultant, Peter McClintock of Applied Analysis—proposed an alternative mechanism for providing states flexibility with regard to the implementation deadline for OBD–I/M inspections. Under the ESP proposal, EPA would allow states to phase-in implementation of OBD–I/M inspection beginning January 1, 2002. Phase-in of the requirement would be achieved by performing the OBD–I/M inspection on MY 1996 and newer, OBD-equipped vehicles as a method for screening out clean vehicles from additional testing. Under this scenario, if an OBD-

equipped vehicle passed the OBD–I/M inspection it would complete the inspection process and be considered in compliance with the state's I/M requirements. If, on the other hand, the vehicle failed the OBD–I/M inspection, it would then receive a tailpipe inspection to determine if the vehicle qualifies as a gross emitter. If the vehicle fails the follow-up tailpipe inspection, it would be required to be repaired to correct the DTCs identified by the vehicle's OBD system. If, on the other hand, the vehicle passes its follow-up tailpipe inspection, the motorist would be allowed to complete the inspection process without seeking immediate repairs but would be advised that repairs would be required prior to the next inspection cycle. This phase-in option would be allowed for one inspection cycle beginning with January 1, 2002. Under this scenario, full-fledged OBD–I/M inspections—with repair or waiver being required of all OBD-failing vehicles prior to completion of the inspection process—would begin no later than January 1, 2003 for annual inspection programs and January 1, 2004 for biennial programs.

3. Response to Comments

It is clear from the variety of comments received on the start date issue that states' interests continue to be as varied on the OBD–I/M check as has historically been the case with I/M programs in general. The Agency's task in this circumstance is to balance the need to move forward on this important environmental measure with the needs and desires of states and other interested parties upon whom the success of this measure ultimately relies. For example, while EPA has heard from many states that additional delays are needed, we have also heard from states who wish to take advantage of the benefits of the OBD–I/M check as soon as possible, but feel constrained from doing something other than what EPA minimally requires.[3] Furthermore, EPA has also received comment from an I/M equipment supplier (i.e., SPX) suggesting that states are in many cases already prepared for the OBD–I/M check—at least as far as the hardware is concerned. While it is easy to conclude based upon comments such as SPX's that many states are more prepared for OBD–I/M testing than their comments suggest, the Agency must also consider the substantial hurdle software development and installation has proven to be for many operating I/M programs during their start-up phase. There is no doubt that for many programs even with OBD–I/M hardware in place, successful start-up of the OBD–I/M check may not be as easy as characterized by SPX.

In developing its response to the many issues and competing interests raised with regard to OBD–I/M program start-up, EPA attempted to strike a balance that would provide states as much flexibility as possible while not constraining those areas that want to move forward as soon as possible. The Agency has concluded that allowing states the flexibility provided by the following three options will strike the balance needed.

The first option echoes the September 20, 2000 NPRM: States choosing to do so may delay implementation of the OBD–I/M test from the existing deadline of January 1, 2001 to January 1, 2002.[4] Furthermore, any I/M program that chooses to do so is free to begin the OBD–I/M check before January 1, 2002 and may credit the OBD–I/M-tested portion of their fleet using the methodology described under the section of today's action entitled, ''OBD–I/M Credit Modeling.'' For states wanting to start earlier than January 1, 2002, EPA encourages them to do so. Nothing in this rule is intended to prohibit or discourage a state from incorporating OBD–I/M testing into its I/M program before January 1, 2002. The Agency rejected a longer, blanket delay for introducing the OBD–I/M check in part due to the fact that even those states arguing for more time have regulations, contracts, and equipment in place which have at minimum begun to prepare these areas for the eventual incorporation of the OBD–I/M check. In fact, the Agency relied on these preparations in granting SIP approvals to the I/M programs in these states. The Agency does recognize, however, the significant difference between having these things on paper and being prepared to move smoothly forward with implementation. In recognition of these issues EPA provides today for two additional options for extending the full implementation of the OBD–I/M check beyond January 1, 2002.

The first of these additional options allows states up to an extra 12 months to begin implementation of the OBD–I/M check, provided they can show just cause to the Agency that up to 12 months later than January 1, 2002 is ''the best a state can reasonably do'' in terms of implementing OBD–I/M tests into their I/M program. Such requests for extension will be subject to approval by the EPA Administrator and approval or disapproval of these requests will be subject to notice-and-comment rulemaking. The factors to be considered by a state in concluding that only a late start will allow for successful implementation include but are not limited to:

- Contractual impediments,
- Significant hardware and/or software deficiencies,
- Data management software deficiencies,
- The need for additional training in the testing and repair communities, and
- The need for additional outreach and public education.

The second of these additional options (which can be adopted separately or in addition to the up to 12 months' extension discussed above) allows a state with an existing tailpipe program to adopt a phase-in approach to help ease the introduction of full-fledged OBD–I/M testing on MY 1996 and newer, OBD-equipped vehicles. This phase-in option can be used for one complete test cycle (i.e., for one year in annual programs and for two years in biennial programs). In this option the OBD–I/M test is effectively used as a screen to help identify vehicles that are clean and for which no additional testing will be required beyond the OBD–I/M test.[5] However, once the vehicle is identified as failing the OBD–I/M check, it would then be given a second-chance tailpipe test to determine if the fault identified by the OBD–I/M check has reached a point

[3] Both Oregon and Pennsylvania have brought to EPA's attention state legislative provisions which limit each state's ability to do more than EPA requires in the area of I/M. In response, the Agency notes a state which chooses to begin OBD–I/M checks while discontinuing other, more traditional I/M tests on OBD-equipped vehicles is arguably reducing rather than increasing the existing burden on both the test network and the motorist. Interestingly, a citizen from Pennsylvania made this very point in his written comments to EPA.

[4] An I/M program will be considered to have fully incorporated the OBD–I/M check once all MY 1996 and newer, OBD-equipped vehicles subject to the program are required to receive the OBD–I/M check and are also required to be repaired and retested upon failure of the OBD–I/M check.

[5] Elsewhere in today's action, EPA concludes that, at its option, a state may suspend traditional I/M tests like the IM240, ASM, purge, and fill-neck pressure tests on MY 1996 and newer, OBD-equipped vehicles once OBD–I/M testing is fully incorporated into the state's operating program. States concerned that the Agency's data and analysis of OBD effectiveness are too limited are free to continue parallel testing of these OBD-equipped vehicles with both the OBD–I/M and traditional I/M tests. The Agency acknowledges that engineering principles and design aspects of OBD might lead one to conclude that the combination of OBD–I/M testing and tailpipe tests provides additive emission reduction benefits. Such potential benefits are not currently quantified. EPA will work with states to develop such credits as appropriate. See the discussion later in this notice under ''Reducing the Testing Burden.''

where the vehicle's current emission performance is adversely effected. If the vehicle fails this second-chance tailpipe test, then the vehicle must be fixed and return for a retest using the OBD–I/M check; if the vehicle passes the second-chance tailpipe test, then it would be granted a one-test-cycle grace period during which to seek repairs to correct the initial OBD–I/M failure. After the first cycle of this phase-in, however, all MY 1996 and newer, OBD-equipped subject vehicles would be required to be tested and, if they fail, repaired in compliance with the OBD–I/M test results.

During the phase-in period described above, the test procedure for MY 1996 and newer, OBD-equipped vehicles shall work as follows: (1) The vehicle is presented for I/M testing and is given a complete OBD–I/M test (i.e., the MIL, readiness, and DTC checks); (2) if the vehicle passes this check it shall be considered a pass for I/M purposes and the vehicle can be registered (or get a sticker as the case may be); (3) if the vehicle fails the OBD–I/M check it will then receive the traditional I/M test(s) used for MY 1996 and newer vehicles prior to the introduction of the OBD–I/M check; (4) if the vehicle passes the tailpipe check it can be registered (or stickered) until the next test cycle when failure of the OBD–I/M test will result in repairs being required, regardless of the results of any other test(s) that may be conducted at that time; [6] and, (5) if the vehicle fails the tailpipe test (again after also failing the OBD–I/M check) it must be repaired and retested using the OBD–I/M check for the retest (i.e., it shall be repaired to turn off the MIL and meet the applicable readiness requirements).

This phase-in approach provides the benefit of faster test times for clean cars (as determined by the OBD–I/M check) by getting them successfully through the system very quickly. In addition, the use of traditional I/M test(s) in tandem with the OBD–I/M check on a subset of the OBD-equipped fleet failing the initial OBD–I/M check allows the program to focus on getting the dirtiest OBD–I/M test failures fixed during this initial, phase-in cycle. In concept, this phase-in approach is very similar to the use of phase-in cutpoints in a traditional I/M tailpipe program. Both approaches have the same goal: to keep overall failure rates low while targeting the dirtiest vehicles for earliest repair.

[6] During this phase-in cycle, it is recommended that the motorist be advised to seek repairs to correct the cause of MIL illumination prior to returning for testing during the next testing cycle, when such repairs will be mandatory.

Even without a phase-in like the one allowed by today's action, EPA does not expect the difference between failure rates for the existing tailpipe test and the OBD–I/M check to be significant. Based upon its pilot testing, EPA expects an overall increase in failure rate of approximately 0–4% for the state's entire in-use fleet (at this time, and depending upon the I/M tailpipe test currently in place for MY 1996 and newer vehicles). It is notable that during this same period of time older model year vehicles which normally have a higher failure rate on average and are not equipped with OBD technology will be retiring from the fleet and largely offsetting the increase on a program-wide basis.

States which choose to use the phase-in option described above may claim full OBD–I/M credit toward an attainment demonstration [7] provided the phase-in cycle has been completed and mandatory repair is required of all OBD–I/M failing vehicles for at least one full test cycle prior to the I/M area's CAA-established attainment date for the pollutants for which the I/M program is required. States which do not complete the phase-in of the OBD–I/M check at least one full test cycle prior to their attainment deadline may not claim additional credit for the OBD–I/M test toward their attainment demonstration, but may continue to claim the level of credit applicable to the tailpipe test used to second-chance pass OBD-equipped vehicles during the phase-in period.

To summarize, in today's action, EPA is offering states three types of flexibility with regard to start-up of the OBD–I/M testing requirement. States may: (1) Delay mandatory implementation until January 1, 2002; (2) take up to an additional 12 months beyond January 1, 2002 to January 1, 2003 upon a showing of just cause and substantial need; and/or (3) take up to one additional test cycle to phase-in the OBD–I/M testing requirement in conjunction with traditional I/M testing, following the steps described above. These three start-up options are intended to balance competing goals and provide sufficient flexibility to the states. The end result of offering these options is that depending on the length of its cycle, a state may postpone the date for full OBD–I/M implementation (i.e., mandatory repair of all subject OBD-equipped vehicles that fail the OBD–I/M check) to as late as January 1, 2005 (i.e., January 1, 2002 plus one 12 month delay in addition to a biennial cycle of dual, phase-in testing).

Although the second and third options for extending and/or phasing-in the full implementation of the OBD–I/M check were not included in the original NPRM for this rulemaking, EPA believes that these two additional options represent a logical outgrowth of the comments received. The Agency further maintains that it is therefore justified in finalizing these options without re-proposing this element of the original proposal to address these additional options.

B. Reducing the Testing Burden: The Continuing Role of Traditional I/M Tests

1. Summary of Proposal

Based upon EPA-led pilot studies that showed the OBD–I/M check to be at least as effective as traditional tailpipe, purge, and fill-neck pressure tests when it comes to identifying vehicles in need of repair, EPA proposed to insert clarifying text into the current I/M rule indicating that states may reduce the existing testing burden on MY 1996 and newer, OBD-equipped vehicles by relying on the OBD–I/M check alone. This would replace the current program that required a state to conduct both its current I/M test(s) as well as the OBD–I/M check, once the latter becomes mandatory. Such clarifying text would be inserted into those sections of the I/M rule currently addressing OBD–I/M testing requirements, such as the performance standards, test procedure requirements, and data reporting requirements.

2. Summary of Comments

Many of the comments received regarding the proposal to allow OBD–I/M-only testing on MY 1996 and newer, OBD-equipped vehicles were aimed at clarifying and articulating the continuing role of traditional tailpipe and/or evaporative system tests in I/M programs in light of EPA's proposal. Three commenters (Massachusetts, NESCAUM, and ESP) requested that EPA clarify its support for continuing use of existing I/M tests on MY 1995 and older vehicles, while two commenters (ALA and ESP) wanted the Agency to stress the need to retain the current I/M program infrastructure in states—even if the OBD–I/M check alone is used on a portion of the subject vehicle population. One commenter (STAPPA/ALAPCO) wanted EPA to clarify that states may add an OBD–I/M check to the continued operation of their tailpipe program, while another commenter (ESP) argued that the OBD–I/M check and traditional tailpipe tests

[7] See discussion of the interim methodology for modeling OBD–I/M credit under ''OBD–I/M Credit Modeling'' later in this action.

are largely complementary with regard to the vehicles they fail and should therefore be used together. ESP then went on to suggest that EPA ''has determined that it must choose one test or the other, but not both,'' and that the NPRM reflected EPA's bias in favor of OBD.

Three commenters (AAA, Pennsylvania, and ESP) requested that EPA provide states flexibility in incorporating the OBD–I/M check into their I/M programs, while six commenters (Illinois, Vermont, New Hampshire, Missouri, Georgia, and AAA) advocated the exclusive use of OBD–I/M testing on MY 1996 and newer, OBD-equipped vehicles (although a subset of these commenters also suggested that traditional I/M testing might be appropriate as a fallback to address vehicles with OBD readiness problems, a comment which will be addressed under the discussion addressing ''OBD–I/M Rejection Criteria''). Five commenters (AAMA, AIAM, Mitsubishi, NADA, and one private citizen) voiced their support for complete replacement of traditional I/M tests on MY 1996 and newer, OBD-equipped vehicles in favor of the OBD–I/M check, indicating further their opposition to dual-testing options, such as fallback testing to address readiness monitoring issues.

Several commenters—ALA, ESP, New Jersey, and others—expressed concern that discontinuing the I/M tailpipe inspection on MY 1996 and newer, OBD-equipped vehicles would eliminate a valuable source of information for overseeing vehicle manufacturers and for triggering emission-related recalls. Several of these commenters suggested that EPA's proposal would effectively allow ''the fox to guard the hen house,'' particularly if dealerships are allowed to test and repair their affiliated manufacturer's product line. Citing recent OBD-related recalls of Honda and Toyota model vehicles, ALA states: ''The manufacturer's self-generated OBD data will launch potentially costly (and embarrassing) recalls. As a result, a manufacturer—and its affiliated dealers—may have an incentive to cheat.''

3. Response to Comments

It is not EPA's intention to suggest that the use of the OBD–I/M check on MY 1996 and newer vehicles will or should affect how MY 1995 and older vehicles are tested. These vehicles—which are not equipped with standardized OBD systems—must continue to be tested using the tailpipe and/or evaporative system tests currently in place for as long as necessary for states to meet their CAA goals. Furthermore, EPA believes that the current I/M testing infrastructure is highly valuable and necessary to test the MY 1995 and older vehicles in a state's fleet, at a minimum. EPA also believes that the need to test MY 1995 and older vehicles using traditional I/M testing mechanisms will continue for many more years to come, though the states themselves remain the ultimate judge concerning their I/M program needs, based upon local conditions and fleet age distributions.

In addition, commenters have expressed concerns with regard to the OBD system's long term durability, and the appropriateness of the OBD system's failure threshold over the full life of a vehicle. While EPA is optimistic about the success of OBD systems, until real world aging of these systems occurs it will not be possible to evaluate the question of OBD durability. EPA encourages states to take account of this uncertainty as they consider their I/M infrastructure needs for future testing of MY 1996 and newer, OBD-equipped vehicles. EPA will be monitoring these and other issues such as the performance of OBD systems both during the emissions warranty period of up to 8 years/80,000 miles as well as during the full useful life of vehicles.

With regard to providing flexibility to the states to dual test OBD-equipped vehicles, EPA hereby clarifies states are free to utilize both the OBD–I/M and traditional I/M tests on OBD-equipped vehicles. The purpose of this action is to provide states more—not less—flexibility with regard to how they comply with the CAA's requirement to perform OBD–I/M inspections on OBD-equipped vehicles as part of their I/M programs. Prior to today's action, the requirement was to perform both OBD–I/M and traditional I/M tests on MY 1996 and newer, OBD-equipped vehicles, beginning no later than January 1, 2001. Today's action merely allows states that wish to do so to suspend the traditional I/M test on the segment of their fleets that are OBD-equipped in conjunction with the start-up of OBD–I/M checks on those same vehicles. States are not obligated by today's action to switch to OBD-only testing on the OBD-equipped portion of their subject vehicle fleet; states that choose to do so may continue to perform whatever I/M inspection they want on OBD-equipped vehicles—provided they also comply with the minimum, CAA requirement to perform the OBD–I/M check on these same vehicles as well.

Concerning the suggestion that the OBD–I/M check and traditional tailpipe tests like the IM240 are complementary, based on the observation that the two tests tend to fail different universes of vehicles during the Wisconsin pilot program, it must be pointed out that the vehicles which pass both tests (approximately 95% of the fleet) overlap entirely. To argue that the two tests do not agree focuses on the small fraction which fail one or the other test and not the overwhelming majority which pass both tests. However, in focusing on the small fraction of vehicles that fail the IM240 or the OBD–I/M check but not both, EPA recognizes that both programs will have some vehicles which could be considered ''false'' failures. For example, a vehicle in an IM240 program could fail if not fully preconditioned but would pass on an immediate retest without any intervening repairs. Similarly, an OBD system could detect a non-recurring problem and store a DTC which could be detected as a failure in an I/M program but would self-clear with continued operation of the vehicle. The pilot program data suggested that at most only 1 to 2 percent of the vehicles tested had such ''false'' failures. EPA does not expect this false failure rate to increase with the age or mileage of the fleet. In contrast, we do expect that the number of real failures detected by either test will increase with the age and mileage of the fleet and the number of real failing vehicles detected by both tests will also increase. Consequently, the percent of failures (real and false) detected by both tests will increase substantially as the OBD-equipped fleet ages.

With regard to the characterization that it determined in advance that only one or the other test would prevail as a result of its OBD–I/M test effectiveness pilots, EPA objects. The Agency received approval for the design of its OBD tailpipe pilot from the Mobile Sources Technical Review Subcommittee[8] prior to beginning its pilot testing program. The Subcommittee was kept informed with quarterly reports during the two year test period and an OBD workgroup under the Subcommittee monitored the entire testing program. The OBD workgroup was an open workgroup

[8] The Mobile Source Technical Review Subcommittee (MSTRS) is a subcommittee of the Clean Air Act Advisory Committee, established under the 1972 Federal Advisory Committee Act (FACA). The MSTRS advises EPA regarding mobile source related issues and includes a wide-range of members representing interested stakeholders from the mobile source community as well as experts in the field.

which included members from the state I/M agencies, I/M testing contractors (including ESP), testing equipment manufacturers, the automotive manufacturing industry, and academic representatives. EPA believes that conducting the design of the test program and the program itself in the public view with stakeholder involvement provided greater objectivity than this comment alleges.

Concerning the ''fox guarding the hen house'' issue generally, EPA independently determines the quality of the OBD system, both during the certification process and as part of EPA's in-use compliance program; we do not leave this determination to the manufacturers and their associated dealerships. With regard to dealerships testing their affiliated manufacturer's product line in decentralized, test-and-repair based I/M programs, the introduction of OBD–I/M testing does not change the dynamics of this testing scenario substantively from the situation that currently exists with decentralized I/M programs in operation now where dealers and other service providers are allowed to both test and repair vehicles (albeit with tailpipe and other traditional I/M testing techniques as opposed to the OBD–I/M check). The existing I/M rule requires that states conduct covert audits of all stations in the program's test network with vehicles set to fail the inspection—specifically to identify fraud arising from the potential for conflict of interest when testing and repair are performed by a single entity. There is nothing in today's action that will weaken these existing requirements. Furthermore, even in a decentralized, test-and-repair program, not all subject vehicles will go to dealerships to be tested and fixed. Other service providers will also participate in the program—service providers without the specific type of conflict the commenters suggest exist with dealerships. A problem significant enough to warrant a recall presumably would come to the program's attention through routine analysis of test results. Should any abuse occur, it would become obvious to auditors looking at dealer X's test records that dealer X is failing its brand-name vehicles at a lower rate than when the same makes and models are tested by other stations in the test network. Therefore, while the potential for abuse exists, EPA believes that there are currently mechanisms in place to detect and correct it.

Concerning the implication that a dealership has an incentive to withhold OBD–I/M test information that could potentially trigger a recall, EPA believes the same incentive exists under traditional tailpipe testing. As indicated above, decentralized I/M programs currently allow dealerships to test their affiliated manufacturer's product line. This practice has not stopped EPA or California from identifying vehicles in need of recall.

It should also be pointed out that the Honda and Toyota cases cited were not triggered as a result of I/M testing. While I/M tests are helpful in identifying individual gross polluters in need of repair, traditional I/M tailpipe tests are not rigorous enough to use as the basis for a recall of an entire class of vehicles. EPA's (and CARB's) enforcement efforts with regard to vehicle manufacturers and their products involve a three-pronged approach. First, the vehicle prototype is tested as part of the new car certification process. As part of our certification program, each manufacturer is required to submit extensive data on their OBD systems. This data is available for review and taken into consideration by EPA prior to issuing the certificate of conformity. Second, at EPA's discretion, manufacturers can be subjected to Selective Enforcement Audits (SEAs) which involve enforcement quality, end-of-the-line testing to ensure that vehicles are meeting their certification standards once they actually go into production. Lastly, there is in-use compliance testing which involves the independent recruitment and enforcement quality testing of vehicles to determine if they continue to meet their certification standards in actual use (which includes a specific evaluation of the OBD system for vehicles so equipped). Nothing in today's action will weaken or lessen these current, and ongoing, enforcement efforts. Additionally, EPA finalized its compliance assurance (CAP 2000) regulations in 1999 (40 CFR 23906) to further emphasize EPA's commitment to ensuring compliance with the Agency's certification regulations—including OBD—throughout the useful life of the vehicle.

Nevertheless, EPA wants to acknowledge the concerns that have been raised by some environmental advocates, some state agencies and other OBD stakeholders that OBD–I/M testing may raise new and qualitatively different compliance issues in contrast to traditional tailpipe I/M testing unanticipated by today's action and existing enforcement and oversight mechanisms. Some of these concerns focus on conflict-of-interest issues that could arise if automotive dealerships are allowed to conduct OBD–I/M testing. EPA acknowledges that the many advantages of the computerized OBD testing approach could bring with them the need for some different requirements to ensure the integrity of the overall program. Therefore, EPA will undertake a public process that includes stakeholder involvement and continued monitoring by EPA so that the Agency can ensure program integrity and successful implementation. If information develops suggesting the need to revise this program, EPA will consider amending these regulations as appropriate.

C. Reducing the Testing Burden: Technical Issues

1. Summary of Proposal

See ''Summary of Proposal'' for section IV (B)(1) above.

2. Summary of Comments

Many commenters addressing EPA's proposal to reduce the testing burden on OBD-equipped vehicles raised technical concerns with regard to EPA's assessment of the effectiveness of OBD–I/M testing as well as with the OBD system itself. Though many of the issues raised will be summarized and addressed in the separate ''Response to Comments'' document discussed earlier, EPA nevertheless believes that several of the more frequently raised issues warrant being discussed here. The following, therefore, is a subset of the technical issues raised with regard to EPA's proposal to reduce the testing burden on OBD-equipped vehicles.

Six commenters (MEMA, ASA, New Jersey, ALA, ESP, and Peter McClintock of Applied Analysis) stated that there is a need for continued data gathering on OBD–I/M effectiveness, particularly with regard to assessing the OBD system's long-term durability. Based upon the lack of available data on the long-term durability of the OBD system itself, three commenters (New Jersey, ESP, and ALA) suggested that EPA warn states that choose to suspend traditional I/M tests on MY 1996 and newer, OBD-equipped vehicles in favor of the OBD–I/M check that they may need to revert to traditional I/M testing of these vehicles in the future, depending upon the long-term durability of the OBD system itself.

Four commenters (ESP, Applied Analysis, New Jersey, and ALA) expressed concern that the OBD system itself may miss high emitting vehicles that might be caught if the OBD–I/M check was coupled to a traditional I/M tailpipe test, like the ASM or IM240. Conversely, several commenters expressed the opposite concern—that the OBD–I/M check would fail vehicles that are actually clean. Among the

technical concerns expressed by commenters with regard to the OBD system itself, the following four were cited most often:

(1) Several commenters expressed the concern that the OBD system itself is too sensitive. According to these commenters, the fear of possible vehicle recalls creates an incentive for manufacturers to design OBD systems that set DTCs too often and frequently well before the vehicle's emissions have become a problem. In other words, the concern is that the OBD–I/M check might allegedly falsely fail vehicles that are clean. Based upon this premise, the commenters maintained that the tailpipe test should be used to confirm that OBD–I/M failures really deserve to be failed.

(2) Several of the same commenters that voiced the first concern also expressed the opposite concern (i.e., that the OBD system itself is not sensitive enough). These commenters focused on the fact that the OBD catalyst monitor is optimized for detecting catalyst malfunctions leading to excess HC emissions, and concluded from this that the OBD catalyst monitor is unable to detect malfunctions which only increase non-HC emissions, like CO and/or NO_X. Furthermore, because the CAA requires that enhanced I/M programs achieve NO_X reductions, a few of these commenters maintained that this omission on the part of OBD is not only a technical problem, but an allegedly legal one as well.

(3) Several commenters expressed concern that the OBD system itself is too frequently ''not ready'' (i.e., some monitors have not been run to determine whether certain components or systems are functioning properly). Furthermore, because the emission status of an OBD-equipped vehicle with unset readiness codes is technically unknown, these commenters expressed the belief that some high-emitting vehicles may escape detection without a back-up tailpipe test.

(4) Lastly, several commenters maintained that the OBD system itself is too simplistic. Because the OBD system does not monitor for the synergistic impact of multiple, marginal component deterioration, these commenters raised the possibility that the OBD system may miss problems that cumulatively result in high emissions.

Regarding the third issue—high emitters missed because of unset readiness codes—many commenters cited claims made by Peter McClintock of Applied Analysis (an ESP consultant) based upon data from Wisconsin and Colorado which reportedly found that vehicles with unset readiness flags had statistically significant higher levels of emissions. Lastly, New Jersey expressed concern that relying on OBD–I/M testing would make it difficult to evaluate the effectiveness of I/M programs.

3. Response to Comments

EPA agrees that the technology of on-board diagnostics needs to be monitored continually both as the systems age and as new technology is introduced. Although the current studies used to support this rulemaking were performed on relatively new vehicles (i.e., six years old or newer), EPA found nothing in these studies to suggest that an inherent problem exists in the technology which will be exacerbated with age or mileage. Furthermore, the Agency has already begun testing high mileage, OBD-equipped vehicles and the findings of this study suggest that the OBD system remains durable even at mileages well beyond 100,000 miles. It should also be pointed out that the onboard computer which makes the decision as to whether or not to light a MIL and/or set a DTC is a solid state system and contains no ''triggers'' that change the computer's pass/fail decision-making logic based upon vehicle age and/or mileage. In fact, incorporation of such a ''trigger'' system would violate both 40 CFR 86.000–16 and section 203(a)(3)(B) of the Clean Air Act. Both sections explicitly prohibit manufacturers from installing devices on vehicles which would have the effect of reducing emission control effectiveness. Section 205(a) of the Act allows for such violations to be fined at the rate of $2,500 for each part or component affected.

Although EPA is optimistic about the durability of OBD-equipped vehicles, the Agency cannot say that MY 1996 and newer, OBD-equipped vehicles will never need some form of follow-up tailpipe testing at some point in the future. Reverting to more traditional I/M testing of OBD-equipped vehicles could prove a useful and cost effective backstop to the OBD–I/M check. While EPA does not currently believe that this is a likely outcome with regard to the OBD–I/M check based upon the testing done to date on advanced mileage, OBD-equipped vehicles,[9] the fact of the matter is that there is no reliable surrogate for natural vehicle aging that will allow the Agency to predict with any certainty what will actually happen to OBD-equipped vehicles as they become significantly older than the vehicles studied to date. Therefore, EPA plans to continue recruiting and testing OBD-equipped vehicles as they age, and will revisit its OBD–I/M testing recommendations and requirements based upon this testing, if and when such becomes warranted. Furthermore, although EPA is committed to continuing its study of OBD technology in the future, the Agency does not believe this should preclude states from taking advantage of this technology at this time.

Concerning the issue of OBD's potential ''over-sensitivity,'' EPA points out that it is the job of OBD to ensure that precise fuel control is maintained to keep the engine operating near or at peak performance and to ensure that fuel economy and emission targets are met. All critical emissions-related components must operate within acceptable tolerances to maintain fuel control and to ensure the durability of the catalyst and engine components. Otherwise, degraded driveability, fuel economy, and emissions performance may occur. Therefore, what may be perceived as ''over-sensitivity'' is actually a result of OBD's attempt to ensure that such degradation in driveability, fuel economy, and emission performance does not occur. This perceived ''over-sensitivity'' is also a sign of one of OBD's strengths—namely, its ability to identify minor, lower-cost repairs prior to their becoming more costly repairs. The perception of over-sensitivity arises from the fact that these repairs are frequently identified before they have a significant impact on the emission performance of the vehicle, when they are still capable of preserving more costly emission control components like the catalyst, which can be damaged if these early warnings from the vehicle's OBD system are not heeded.

Concerning OBD's perceived ''under-sensitivity'' (i.e., its current failure to monitor for NO_X- and/or CO-only catalyst malfunctions as well as its inability to detect the synergistic impact of minor, but multiple component malfunctions) EPA acknowledges that no I/M test identifies all of the vehicles in the fleet which are either broken or which have high emissions. Based on this fact it is possible that combining different identification methods in an I/M program through the use of dual testing may increase the ability of the program to identify some vehicles for repair that would otherwise be missed under a single test scenario. At this point, however, the magnitude of such

[9] In recognition of the potential impact of high mileage on OBD effectiveness, EPA recently completed testing and has begun analyzing the results from a study of 43 OBD-equipped vehicles with mileages of approximately 100,000 miles to as high as 273,000 miles. Early indications suggest that high mileage does *not* have a noticeable impact on the effectiveness of the OBD system to detect needed repairs.

a benefit from dual testing remains unknown and EPA does not currently know what increased value this form of testing may offer. What is known—based upon EPA's pilot testing—is that repairs identified by the OBD system as it is currently designed led to NO_X reductions at least as great as those achieved from repairs triggered by the IM240 test at final cutpoints. Furthermore, EPA believes that the current OBD catalyst monitoring strategy is adequate to detect most forms of catalyst deterioration, and that the vast majority of NO_X-related failures will also eventually result in HC-related failures (and thus will eventually be identified under the current monitoring strategy). Nevertheless, EPA will continue to assess the potential for additional credit for dual testing, and will work with states to develop such credits as appropriate.

Concerning the argument that because the CAA requires enhanced I/M programs to reduce NO_X emissions, allowing states to rely on OBD–I/M only represents a violation of the Act, EPA disagrees. While it is true that based on catalyst monitoring alone, OBD–I/M testing may miss a portion of NO_X catalyst failures (i.e, those catalyst failures which produce only increases in NO_X emissions without also increasing HC emissions), EPA is confident (based upon the results of the Agency's pilot testing) that OBD's comprehensive monitoring of all emission control systems and engine operation (such as the Exhaust Gas Recirculation (EGR) valve, et cetera) is adequate to identify many other NO_X failures. Therefore, EPA concludes that OBD–I/M testing satisfies the statutory requirement to get NO_X reductions, as well as HC and CO reductions. Furthermore, even if the OBD catalyst monitor does not currently check directly for NO_X increases, it is still capable of yielding NO_X reductions. In many cases, a catalyst failing for HC will also produce excessive NO_X emissions—emissions which are then reduced as a by-product of correcting the underlying HC failure. EPA's pilot studies have confirmed that OBD–I/M testing does in fact achieve HC, CO, and NO_X reductions on a fleet-wide basis which equal or exceed the reductions currently obtainable from tailpipe tests such as the IM240. It should also be noted that CARB has proposed adding monitoring requirements for NO_X-only catalyst malfunctions to be phased-in for MY 2004–2007 vehicles meeting Low-Emitting Vehicle (LEV) II standards in their upcoming regulatory amendments (Mail-Out #MSC 99–12, May 26, 1999). EPA agrees with this proposal and may include a similar proposal as part of its future OBD regulations.

Concerning the possible use of traditional I/M testing as a fallback for OBD-equipped vehicles with unset readiness codes, EPA believes that the readiness issue can be adequately addressed without resorting to fallback testing by employing the exemptions from the readiness rejection criteria allowed by today's action (i.e., two or fewer unset readiness codes for MY 1996–2000 vehicles, and one unset readiness code for MY 2001 and newer—see discussion under ''OBD–I/M Rejection Criteria'' later in this action). At this time, the Agency believes that the technical evaluation that it has performed (and its review of other evaluations) is consistent with this conclusion. With regard to the use of tailpipe testing in the case of vehicles which exceed the readiness exemptions allowed by today's action, the Agency believes that an exceedingly small number of vehicles will fall into this category. Review of data from the Wisconsin pilot indicates that at most 1 to 2 percent of the OBD-equipped fleet may qualify as exceeding the readiness exemption allowed by today's action; the percent of vehicles exceeding this readiness exemption is expected to decrease as improvements to the OBD system are made. The Agency believes that the best method for dealing with vehicles exceeding the readiness exemption is to reject them and require that the unset readiness monitors be set prior to testing as this will maximize the usefulness of the OBD–I/M system check. However, a state's discretionary use of limited fallback testing to address this issue is clearly not prohibited by today's action. Successful programs which choose to use this type of fallback testing will monitor the rate at which vehicles exceed the readiness code exemption. An increasing pattern of vehicles being presented as ''not ready'' at the time of initial testing may suggest attempts to clear OBD problem codes by disconnecting and reconnecting the battery without completing appropriate repairs. EPA expects states to take appropriate action to address such issues should they arise.

Concerning the claim that OBD not-ready vehicles show a statistically significant higher rate of emission problems, neither Dr. McClintock nor the other commenters citing his study supplied EPA with the data upon which this statistical conclusion was reportedly based. Nevertheless, EPA is aware that the study used ''fast pass'' tailpipe emissions data to represent the full IM240 emission levels of individual vehicles. EPA disagrees with this methodology based upon the conclusion that so-called ''fast pass'' emission levels are only valid for establishing gross indicators of whether the vehicle is likely to be clean or dirty, but cannot be used to identify an actual, absolute emission measurement that is representative of the vehicle in question. EPA is aware of an unpublished analysis [10] which shows that if the McClintock analysis was performed properly using full-length as opposed to fast-pass IM240's, then no statistical difference would be found between the failure rates of ''ready'' versus ''not ready'' vehicles.

EPA also believes that its own pilot testing provides a basis for refuting the claim made by Dr. McClintock that current I/M tailpipe data gathered from I/M test lanes can be used to show that OBD is failing to identify a large number of high emitting vehicles. As part of its OBD tailpipe pilot testing, EPA recruited a small number of vehicles with no MIL illuminated but which appeared to have high tailpipe emissions based upon testing performed in I/M test lanes in both Arizona and Colorado. EPA found that of the 17 vehicles procured meeting these criteria 15 passed a subsequent, quality-controlled IM240 test performed under more consistent, laboratory-controlled conditions without receiving any repairs. Furthermore, EPA is aware of a test program which is ongoing in the state of Colorado which has recruited an additional 12 MIL-off, high lane-based emission vehicles. Of these 12 potential high emitters ''missed'' by OBD, EPA has found that six were false lane failures [11] based upon subsequent, laboratory-controlled confirmatory testing. Among the remaining six vehicles, EPA has found four trucks which have an OBD design deficiency which the Agency was aware of prior to this test program and which is a matter of discussion with the manufacturer. Of the two remaining vehicles, one was not able to have its emissions verified through Federal Test Procedure (FTP)

[10] The results of this unpublished analysis were presented by Robert Klausmeier, an OBD consultant, to a gathering of states and other interested parties sponsored by NESCAUM. A copy of this presentation has been included in the docket for today's action.

[11] It should be noted that the lane recruitment criteria in the Colorado study included looser IM240 cutpoints than were used in the EPA OBD tailpipe pilot and that second-chance testing was also used to lower the potential for lane-based false failures. EPA believes these differences in lane recruitment criteria account for the lower percentage of false failures among the lane-performed IM240's included in the Colorado study as compared to EPA's sample of 17 vehicles.

testing due to the lack of a four-wheel drive dynamometer at the laboratory performing confirmatory testing and the other vehicle lacked sufficient documentation to determine the cause of the emissions problem.

Lastly, with regard to a state's ability to perform program evaluations after switching to OBD-only testing on MY 1996 and newer, OBD-equipped vehicles, EPA does not believe that switching to an OBD-based inspection for I/M prevents a state from evaluating the I/M program's overall effectiveness. EPA has guidance available (EPA420–S–98–015, October 1998, ''I/M Program Effectiveness Methodologies'') which describes methodologies which may be used to evaluate an operating I/M program. Currently available techniques include the use of remote sensing technologies and the random, independent sampling of the fleet with appropriate tailpipe testing. EPA believes that these techniques are adequate to evaluate OBD-based testing as well as more traditional I/M programs. Additionally, EPA is willing to work with states to develop methodologies which they feel are more appropriate for use on an OBD-and/or non-OBD-tested fleet.

D. Reducing the Testing Burden: Legal Issues

1. Summary of Proposal

See ''Summary of Proposal'' for section IV (B)(1) above.

2. Summary of Comments

Three commenters (ESP, ALA, and Applied Analysis) argued that Congress meant for enhanced I/M programs to use both tailpipe and OBD–I/M testing on MY 1996 and newer, OBD-equipped vehicles. ESP further commented that the CAA requires ''the measurement of tailpipe emissions'' which means that EPA cannot allow states to suspend tailpipe testing in favor of OBD–I/M checks because the OBD system does not measure emissions, but merely infers the potential for increased emissions by monitoring individual components and systems. To substantiate its claim that the OBD–I/M check does not qualify as an ''emission test,'' ESP cites Mail-Out #96–34a from the California Air Resources Board (CARB) which states that OBD systems do not ''measure tailpipe emissions directly.'' Because EPA's OBD requirements reflect those adopted by CARB, ESP concludes that CARB's statements regarding OBD's status as an emission test apply equally to the Federally certified OBD system.

Citing a DC Circuit Court ruling (Natural Resources Defense Council, Inc. v. EPA, 22 F.3d 1125, 1143—D.C. Cir. 1994) that found EPA was required by the CAA to include two tests per covered vehicle in its enhanced I/M performance standard (i.e., an emission test and a visual component check), ESP concluded that EPA's proposal to require only OBD–I/M testing on MY 1996 and newer, OBD-equipped vehicles was in violation of the DC Circuit Court's ruling. ESP also maintained that EPA's proposal violates the CAA's requirement that I/M programs be centralized, based upon ESP's interpretation of the OBD system as being inherently decentralized (i.e., the actual monitoring system is installed on each individual vehicle) even if the scan of the OBD computer is performed at a centralized testing facility. ESP further argued that the National Highway System Designation Act of 1995 (which barred EPA from automatically discounting the SIP credit afforded decentralized I/M programs as compared to centralized I/M programs) did not change the CAA's requirement that I/M programs be centralized unless decentralized programs could be proven to be equally effective.

ESP also maintained that Congress indicated its understanding that OBD is not an emission test by listing both emission testing and inspection of the onboard diagnostic system as separately required elements among the minimum program elements to be included in an enhanced I/M program (see CAA sections 182(c)(3)(C)(v) and (vii), ''Serious Areas—Enhanced Vehicle Inspection Program—State Program''). ESP further suggested that this separate listing of emission testing versus OBD inspection prevents EPA from finalizing its proposal to allow states to reduce the testing burden on OBD-equipped vehicles.

Lastly, two commenters (ESP and Ethyl Corporation) raised objections regarding the proprietary nature of the OBD monitoring strategies employed by individual manufacturers. Both commenters argued that without a full, public disclosure of information claimed as confidential business information by the vehicle manufacturers when it was supplied to EPA during the certification process, the public cannot comment on the adequacy of EPA's proposal to allow the OBD–I/M check to replace traditional I/M tests on OBD-equipped vehicles.

3. Response to Comments

EPA disputes ESP's claim that the DC Circuit Court ruling cited is applicable to the issue of whether or not individual enhanced I/M programs are required to perform both tailpipe emission tests and the OBD–I/M check on MY 1996 and newer, OBD-equipped vehicles. The cited ruling addressed the minimum program elements that were to be included in EPA's enhanced I/M performance standard under CAA section 182(c)(3)(B)(i) but did not address the minimum program elements or model year coverage required of individual state programs under section 182(c)(3)(C). The performance standard itself does not establish minimally required program elements; instead, when taken as a whole and run through the MOBILE emission factor model (along with local area data for such variables as fleet age distribution, average temperature, local fuel characteristics, et cetera) the performance standard generates an area-specific emission reduction target for the state to meet or beat. It is not unusual for a state's program to differ substantially from the applicable performance standard with regard to individual program elements and parameters. For example, while all the performance standards in the I/M rule include annual testing, the majority of programs adopted by the states employ biennial testing. Furthermore, while the DC Circuit Court ruling required EPA to include emission testing and visual component checks on all subject model years in its enhanced I/M performance standards (i.e., no model year exemptions), it made no such finding with regard to individual state programs. The court certainly did not say that all state programs must include both OBD–I/M and tailpipe testing on all model years. In fact, the majority of operating I/M programs include some form of model year exemption for new and/or older vehicles. It is also routine practice for a state program to use different test types and standards on different vehicles, based upon model year and vehicle type. As long as the state program can get the same or better emission reductions as would the program assumed in the relevant performance standard, the state has a great deal of flexibility in defining the specific combination of program elements it will adopt—provided it meets the statutory minimum in CAA section 182(c)(3)(C). EPA therefore maintains that states that exercise their discretion to suspend existing I/M tests on MY 1996 and newer, OBD–equipped vehicles in favor of the OBD–I/M check on those same vehicles are merely employing the same sort of flexibility they currently use with regard to model year exemptions, test frequency, and

test type coverage, and that such exemptions are fully consistent with section 182(c)(3)(C).

Regarding the CAA's intention to require enhanced I/M programs to include both tailpipe emission testing and OBD–I/M inspections because ''emission testing'' and ''onboard diagnostics'' are listed separately in the list of mandated elements for enhanced I/M programs—EPA again disputes ESP's interpretation. First, the CAA does not specify ''tailpipe'' emission testing at any point—just ''emission testing.'' It is EPA's contention that a test to detect emissions from the vehicle's evaporative system qualifies as an ''emission test'' under the Act's requirements. Therefore, a state program which chooses to cover its MY 1996 and newer, OBD-equipped vehicles with the OBD–I/M check and a separate gas cap evaporative emission test can be considered to be conducting both an ''emission test'' and an OBD–I/M check on that particular class of vehicle. Furthermore, the Act does not state that an emission test is required of every vehicle subject to the I/M program, merely that the program include some level of emission testing. To test this interpretation, EPA points to the separate requirement for OBD–I/M testing. If ESP is correct in maintaining that the OBD–I/M and emission testing requirements are separate and equal requirements under the CAA because they are listed separately, and if ESP further maintains that emission testing is required of all subject vehicles, then it naturally follows that OBD–I/M testing should be applicable to all subject model years as well. Though this conclusion flows from the logic of ESP's argument, it is obviously absurd because it is impossible to perform an OBD–I/M inspection on vehicles that are not equipped with an OBD system to begin with (i.e., MY 1995 and older vehicles). By the same token, EPA maintains that the Act does not mandate emission testing on all subject vehicles, just that the enhanced I/M program include emission testing among the program elements employed.

Regarding ESP's claim that the OBD–I/M check itself is not an emission test, EPA acknowledges that this is an available interpretation with regard to the CARB definitions and requirements cited, but disputes the conclusion that this has any bearing on the flexibility states may exercise in their development of I/M programs, per the above discussion. Furthermore, EPA does not agree that allowing a test such as the OBD–I/M check to replace tests such as the tailpipe, fill-neck pressure, and purge tests reflects a ''weakening'' of Federal requirements, but believes it is more appropriately an available flexibility for states. Based upon its pilot testing, EPA believes that it has demonstrated that the OBD–I/M check is at least equivalent to the currently available I/M tailpipe and evaporative fill-neck and purge tests in terms of reducing emissions and identifying vehicles in need of repair.

Regarding the Act's requirement for centralized testing, EPA believes that the OBD–I/M check is a test type and not a network design. Furthermore, the OBD–I/M check itself is clearly conducted at the test facility—whether centralized or decentralized—and not in each vehicle as the MIL is illuminated.

Lastly, with regard to the claim that full disclosure of OBD certification information is necessary for the public to evaluate EPA's proposal and for the successful implementation of OBD–I/M in general, EPA points out that it finalized its Service Information Rule on August 9, 1995 (60 FR 40474). This rule requires that vehicle manufacturers make available to aftermarket service providers any and all information needed to make use of a vehicle's emission control diagnostic system. EPA is currently drafting an NPRM to propose changes to the 1995 regulations to further improve the accessibility of service and repair information for the automotive aftermarket and I/M programs. We expect the proposal to be issued in the Spring of 2001. Furthermore, while it is true that there is some variance from manufacturer to manufacturer in the design of their systems, EPA believes that all of the information needed to make use of or comment on the OBD system is or will be covered under EPA's Service Information Rule as described above.

In response to the comments EPA received from Ethyl Corporation, which alleged that a greater volume of information than is currently available is required for the public to comment on EPA's OBD–I/M proposal, the Agency does not believe that OBD technology's use in I/M raises information availability issues separate from our obligations under the Service Information Rule described above. Furthermore, today's action does not introduce the OBD–I/M check as an I/M test; rather, today's action provides states greater flexibility with regard to the OBD–I/M requirements originally established in 1996. Arguably, Ethyl's comments would have been more appropriate to that rulemaking, as opposed to the current action. In addition, in a separate action Ethyl has petitioned the Agency regarding our CAP 2000 and Heavy-Duty diesel rulemakings to compel the availability of information similar to the OBD certification information requested here on similar (if not identical) issues. It is EPA's intention to consider this comment in its response to that petition and in the context of a planned NPRM in the Spring of 2001 which will address service information availability.

Additionally, EPA is working with automobile manufacturers and Weber State University to develop a Web Site designed specifically for use by I/M programs that will provide easy access for states to obtain manufacturer information of particular interest to I/M programs. Examples of the information that will be found on this Web site when it is launched include (but is not limited to) diagnostic link connector locations and technical service bulletins for vehicles with readiness problems.

It should be noted that as with any new testing element, additional issues may be identified in the course of implementation. EPA is committed to continually address new issues regarding OBD–I/M implementation after this rulemaking goes into effect, and as appropriate. EPA will also continue to work with manufacturers and I/M programs to ensure that the information needed by states to successfully implement the OBD–I/M check is available to them.

E. Retaining the Gas Cap Test

1. Summary of Proposal

While EPA's pilot testing supports allowing states to streamline their testing programs with regard to MY 1996 and newer, OBD-equipped vehicles, it also supports EPA's recommendation that states currently performing the gas cap pressure test on MY 1996 and newer vehicles retain that test, even after mandatory OBD–I/M inspections are begun.

2. Summary of Comments

Seven commenters (New Jersey, Illinois, Pennsylvania, Missouri, Colorado, Texas, and ESP) supported retaining a separate gas cap check that is conducted in addition to the OBD–I/M check. Two commenters (AIAM and a private citizen) maintained that the gas cap test should be suspended because: (1) It is redundant on vehicles equipped with OBD evaporative emission monitors; (2) there have been documented instances of problems with gas cap testing equipment; and (3) EPA does not have data to quantify the benefits of conducting the gas cap check in addition to the conventional OBD–I/M check.

3. Response to Comments

EPA's decision to recommend that states retain the gas cap check in conjunction with the OBD–I/M inspection is based on three factors:

(1) The gas cap pressure test is designed to find leaking gas caps with an equivalent hole size of less than 0.010 inches in diameter which is considerably more stringent than the 0.040 inch leak that OBD is designed to monitor. Although a stricter OBD evaporative leak detection threshold of 0.020 inches in diameter will be phased-in by MY 2002, this is still less stringent than the current gas cap pressure test.

(2) Data from the 30 vehicle evaporative emission pilot study shows that vehicles with an induced leak in the gas cap of 0.020 inches in diameter emitted significantly more evaporative emissions than the certification standard. This leaking cap was not detected with an OBD leak monitor designed to meet the 0.040 inch diameter leak detection standard.

(3) Data from the Wisconsin I/M program shows a much higher incidence of gas caps which failed the I/M gas cap check than were detected by the OBD evaporative emission monitor.

EPA acknowledges that more test data would be desirable to determine the cost effectiveness of conducting the gas cap test in conjunction with the OBD–I/M check. If more data are collected which suggest that the newest OBD evaporative emission monitors (i.e., the 0.020 inch leak monitors) are capable of adequately detecting the vast majority of leaking gas caps detected by the gas cap pressure test, then EPA may recommend that states discontinue the separate gas cap pressure test. However, at present, EPA finds the gas cap pressure test to be a simple, accurate, and time-efficient supplement to the OBD–I/M check. Therefore, EPA stands by its original recommendation that states currently conducting the gas cap pressure test on MY 1996 and newer, OBD-equipped vehicles continue to conduct this test, even after the OBD–I/M check becomes mandatory. To claim gas cap testing credit under MOBILE5, therefore, states will need to continue conducting the gas cap test, or adjust their credit claims accordingly. In addition, MOBILE6, when it is released, will allow states that retain the gas cap test on OBD-equipped vehicles to model additional emission reduction credit for the gas cap pressure test in addition to that assessed for the OBD–I/M check alone.

Lastly, concerning the comment that there have been documented instances of problems with the gas cap test: this comment is based on a single instance of a flawed design for a single gas cap adapter and was limited to a single manufacturer's vehicles. The adapter has subsequently been redesigned and proven to be acceptable for the vehicles in question.

F. OBD–I/M Credit Modeling

1. Summary of Proposal

EPA proposed to revise the OBD sections of the I/M performance standards to indicate that for modeling purposes, the OBD–I/M testing segment of the performance standard overlaps but does not add to the credit already assessed for testing MY 1996 and newer vehicles. Furthermore, prior to release of MOBILE6, the credit from OBD–I/M testing would utilize (as opposed to being added to) the credit already assessed for the testing of MY 1996 and newer vehicles in the states' I/M SIPs. Therefore, with the exception of the gas cap test, traditional I/M tests could be dropped on MY 1996 and newer vehicles in favor of OBD–I/M testing on those same vehicles without affecting an area's ability to meet the applicable performance standard. Effectively, this meant that for areas currently performing IM240 on MY 1996 and newer vehicles, the credit for OBD–I/M testing would equal IM240 (at whatever cutpoint the state was using on MY 1996 and newer vehicles prior to the switch to OB—-I/M testing), while for areas using the idle test on these same vehicles, the credit for OBD–I/M testing would equal the idle test (again, at applicable cutpoints). This ''no net increase/no net loss'' credit approach was specifically intended to be an interim modeling methodology, to be used only with the MOBILE5 model (which does not include the capability to model OBD–I/M checks directly), prior to mandatory use of MOBILE6 and subsequent mobile source emission factor models (which will include the OBD–I/M check as a separate, credited I/M program element).

2. Summary of Comments

A significant number of comments were received on the issue of how much SIP credit should be accorded to the OBD–I/M test prior to release and mandatory use of the MOBILE6 emission factor model. The minority of commenters on this issue (five states) supported the proposed policy and the degree of their support varied. Three of those five—Illinois, Missouri, and New York—unequivocally supported no credit loss for the OBD–I/M check being performed in lieu of tailpipe testing as an interim modeling methodology prior to release and mandatory use of the MOBILE6 emission factor model. New York stated that the policy rewards states which elected to use more stringent tests. Two other states—Utah and Colorado—tied their support for the policy to MOBILE6. Utah only supported the credit if MOBILE6 is released on time (i.e., by late January 2001), but otherwise supported OBD–I/M testing being afforded an IM240 level of credit for all programs to use when performing SIP and conformity modeling. Colorado supported the proposed credit policy but only until enough new data is gathered to substantiate a more specific level of OBD–I/M credit. Colorado is concerned that MOBILE6's OBD–I/M credit assumptions are inflated because of the State's findings from its own studies of OBD–I/M effectiveness (see discussion of this issue under ''Reducing the Testing Burden'').

The majority of comments on OBD–I/M credit were adverse to EPA's proposed approach. Most supported OBD–I/M credit at a level higher than proposed. Eight states and STAPPA/ALAPCO commented explicitly that the OBD–I/M check should be given more credit, with the majority citing credit equivalent to that afforded the IM240 tailpipe test as being an appropriate level of credit for consideration for all I/M programs. Several commenters noted that the proposed ''no net gain/no net loss'' policy is inequitable because certain areas have no base I/M tailpipe test upon which to base credit, and those with idle tests would receive no NO_X credit, although EPA's own pilot testing confirms that OBD–I/M testing does, indeed, produce NO_X emission reduction benefits. One state commenter even suggested that credit exceeding the IM240 level might be afforded states which use anti-tampering (ATP) checks in addition to the OBD–I/M check on MY 1996 and newer, OBD-equipped vehicles. Another state commenter noted that not only IM240 credit, but also full evaporative system testing credit should be given for doing the OBD–I/M check. In addition to the state commenters, two automotive industry groups also submitted adverse comments to the credit proposal. AAM and NADA noted that the OBD–I/M check should be given ''enhanced'' or IM240 level credit. One felt this was necessary for equity reasons because many areas will not actually use MOBILE6 for several years while the other noted that interim credit may not be necessary if MOBILE6 is released on schedule. Only one private citizen submitted comment, noting that OBD–I/M testing should be given up to two

times the IM240 level of credit (though the reason for this claim was unclear).

Miscellaneous comments were also submitted on the OBD–I/M credit proposal which neither supported nor contested the proposed ''no net gain/no net loss'' interim modeling methodology proposed for use under MOBILE5. Comments by three states and NESCAUM reflected concerns about various modeling issues. NESCAUM expressed concern that MOBILE6 will not allow the user the option of applying traditional tailpipe testing to model MY 1996 and newer, OBD-equipped vehicles because the default I/M option for those vehicles is either the OBD–I/M check, the gas cap test, or both. California wanted EPA to confirm that it can continue to use the OBD credit assumptions already included in its alternative, California-specific EMFAC emission factor model. New Jersey expressed concern that the proposal is arbitrary and would like to use OBD–I/M testing solely for its evaporative system testing capabilities, which the State argues should receive full evaporative system credit. New Jersey further maintained that EPA's OBD–I/M SIP crediting proposal should not be finalized until after MOBILE6 has been fully reviewed and modified (if necessary). Alaska indicated that it read the proposal to mean that states which begin OBD–I/M testing earlier than required are not allowed to claim credit for such testing unless they also perform tailpipe and evaporative system testing. Maryland expressed concern about the time it is taking to release MOBILE6 and the impact the release schedule is having on states' ability to develop SIPs.

With regard to evaporative system testing and credits, ESP supported the proposed retention of gas cap testing, and added that it also wanted EPA to consider the potential for future, additional credit for as-yet-undefined, non-OBD-based, alternative evaporative system tests. Waekon also expressed concern with EPA's crediting of OBD–I/M inspections and its implications for non-OBD-based evaporative system testing of OBD-equipped vehicles. In particular, Waekon was concerned that EPA's crediting proposal and the MOBILE6 emission factor model do not take into account the fact that the OBD evaporative system monitoring requirement was phased in over MY 1996–99, so that not all MY 1996 and newer, OBD-equipped vehicles actually monitor for evaporative system deficiencies. Waekon argued that the amount of credit afforded OBD–I/M testing for evaporative system monitoring should either be reduced, or that additional credit should be allowed for states that conduct non-OBD-based evaporative system testing of MY 1996 and newer, OBD-equipped vehicles in conjunction with the OBD–I/M check (based upon the evaporative system monitoring phase-in issue discussed above).

3. Response to Comments

While some commenters supported the proposal that states see ''no net gain/no net loss'' of credit for OBD–I/M testing in the interim period before MOBILE6 is available and required, the majority of commenters supported providing OBD–I/M testing a higher level of credit which could be claimed equally by all states performing the OBD–I/M check. Most of those commenters advocating more credit for the OBD–I/M check expressed the belief that credit equivalent to that granted to the IM240 tailpipe test would be an appropriate level of credit for the OBD–I/M check. EPA was particularly interested to learn of two potential issues with the current credit proposal: (1) That it does not account for areas which have no previous tailpipe program upon which to base the ''no net gain/no net loss'' credit approach, and (2) the inequity that arises with regard to states doing idle testing, which would be effectively denied NO_X credit for their OBD–I/M testing (at least until MOBILE6 is available for state use).

In its September 20, 2000 NPRM, the Agency noted that the proposed ''no net gain/no net loss'' credit proposal was intentionally conservative and designed to anticipate changes in I/M program assumptions such as in-use deterioration which will be reflected in MOBILE6. Based upon the equity concerns raised by many of the commenters, the Agency now believes that it is reasonable to allow states to claim IM240, fill-neck pressure, and purge test credit under MOBILE5 during the interim period between the release of MOBILE6 and its mandated use. While it is known that modeling total I/M performance with MOBILE6 is expected to show a net credit loss from I/M compared to what MOBILE5 currently shows (due to numerous changes in in-use deterioration rates), we acknowledge that trying to anticipate some of the MOBILE6 change outside the context of the other changes included in the model is contrary to previous policy with regard to transitioning between models and leads to inequitable results. Furthermore, separate from the in-use deterioration issue cited above, the Agency believes that its pilot testing demonstrates that OBD–I/M testing is at least equal to the IM240, fill-neck pressure, and purge tests in terms of comparative emission reduction potential.

It should be stressed that EPA's original proposal was not based upon any concern with the OBD–I/M check's performance relative to other I/M tests; we are confident that the OBD–I/M check will reliably achieve significant emissions reductions (in addition to serving as a pollution prevention measure, as discussed elsewhere). It is also important to note that STAPPA/ALAPCO indicated in its comments that a reconciliation of overall I/M credit should be done once MOBILE6 is released.[12] In response to comments received, EPA believes it would be inappropriate to begin to phase-in one aspect of MOBILE6's many changes ahead of others and agrees that a separate process (such as the one STAPPA/ALAPCO suggests) is a more appropriate venue which will place I/M changes in context with other changes incorporated in the MOBILE6 model. Therefore, considering that MOBILE6 is expected to be released soon after this rule takes effect—and considering the majority of commenters requesting higher, and more generally applicable credit—EPA has decided it is appropriate to allow states to claim credit equivalent to IM240,[13] fill-neck pressure, and purge test credit for the OBD–I/M check as modeled under MOBILE5.

With respect to commenters' requests that the OBD–I/M check also be assigned credit under MOBILE5 comparable to that received for gas cap, fill-neck pressure, and/or purge evaporative system testing, EPA agrees that credit under MOBILE5 is justified for the evaporative system fill-neck pressure test and the evaporative system purge test, but believes that the gas cap pressure test should still be performed by those areas wishing to claim credit for the gas cap pressure test (for reasons explained under the discussion of ''Retaining the Gas Cap Test''). Furthermore, the gas cap pressure test credit will be additive to the OBD–I/M credit under both MOBILE5 and MOBILE6.

With regard to the request that the OBD–I/M check also be assigned the credit associated with the ATP check under MOBILE5 in addition to the tailpipe and evaporative system credit already discussed, EPA finds that such additional credit is not warranted.

[12] EPA agrees with STAPPA/ALAPCO's observation, and wishes to further stress that states will ultimately have to account for this credit adjustment between MOBILE5 and MOBILE6 in their attainment and Rate-of-Progress SIPs.

[13] By ''IM240'' EPA means IM240 at final cutpoints for MY 1996 and newer vehicles.

While the OBD–I/M check has been demonstrated to be sufficiently rigorous to identify the failed or missing components that would be covered by a typical ATP check, the MOBILE5 model already assumes that the IM240 has the same ability to detect missing components, and therefore already factors ATP check credit into the credit assigned the IM240. Allowing states to credit the OBD–I/M check under MOBILE5 as being equal to the IM240 plus the ATP check would result in double-counting credit. EPA therefore rejects the request to include ATP credit in addition to the credit otherwise allowed the OBD–I/M check under MOBILE5.

With respect to the miscellaneous comments received regarding OBD–I/M crediting under MOBILE6, EPA is working to address many of the commenters' concerns separate from this action. For example, the Agency is considering the need states may have for modeling tailpipe testing of MY 1996 and newer, OBD-equipped vehicles under MOBILE6. Special procedures may be approved after the release of MOBILE6 to deal with this concern. Concerning California's request that EPA address whether the State can use the OBD credit assumptions contained in its alternative, California-specific EMFAC emission factor model series, EPA has a separate approval process in place to address the EMFAC model issue and will address this request in the appropriate forum. Concerning Alaska's reading of the proposal as somehow disallowing OBD–I/M credit for states that start OBD–I/M testing earlier than required who also suspend or do not add traditional I/M testing of OBD-equipped vehicles, EPA concludes that this belief is based upon a misunderstanding of the proposal. Today's action affirmatively allows states to suspend traditional I/M tests on MY 1996 and newer, OBD-equipped vehicles in favor of OBD-only testing on those same vehicles even before required to do so by today's action. Furthermore, such states may claim IM240, fill-neck pressure, and purge test credit under MOBILE5 or the OBD–I/M credit that will be available under MOBILE6.

Waekon Corporation and others have suggested that states should receive additional credit if they conduct non-OBD-based evaporative system tests in addition to the gas cap pressure test on OBD-equipped vehicles that are either ''not ready'' for the evaporative system monitor or those vehicles for which the OBD evaporative system monitoring requirement does not apply due to phase-in issues. Alternatively, it has been suggested that the level of evaporative emission credit afforded the OBD–I/M check under either MOBILE5 or MOBILE6 should be reduced to account for the fact that some MY 1996–98 light-duty vehicles and trucks are not equipped with evaporative emission monitors during the 20, 40, 90 percent phase-in allowance period that covers those model years. In response to this, EPA points out that the MOBILE6 model will take the phase-in of the OBD evaporative system monitoring requirement into account in assessing the evaporative credit attributable to the OBD–I/M test. MOBILE6 will also allow states to claim additional credit for conducting the fill-neck pressure test on that portion of the OBD-equipped fleet that can be tested in this manner. However, while EPA does not prohibit any I/M program from conducting functional evaporative system checks on OBD-equipped vehicles, the Agency also does not believe it is reasonable to require such alternative tests for vehicles which are ''not ready'' for the evaporative system monitor at the time of the OBD–I/M test, or for vehicles which do not have OBD evaporative emission monitors, particularly during the phase-in model years of 1996–98. The rationale for this position is based on the minimal air quality benefits gained from testing a small subset of vehicles, and the untestable nature of these vehicles. These concerns are discussed below. If a state wishes to conduct a functional test they should consult the Agency who will in turn determine the acceptability of the functional test in the I/M environment and credit it appropriately.

EPA does not require functional tests on OBD-equipped vehicles for two reasons:

(1) The incremental emission reduction benefit resulting from testing a fraction of MY 1996–98 vehicles not equipped with evaporative emission monitors, or those vehicles ''not ready'' for the evaporative system monitor at the time of the OBD–I/M test, is likely to be extremely small given the low likelihood of evaporative emission failures for this small subset of vehicles. Since the introduction of vehicles manufactured to comply with the enhanced evaporative emission standard in 1996, and the Onboard Refueling Vapor Recovery (ORVR) standard in 1998, vehicles have better and more reliable purge systems, better component durability obtained through material changes, and better engineered component connectors, making them less likely to fail.

(2) With the exception of the gas cap pressure test, most I/M programs do not currently conduct functional evaporative emission tests on non-OBD-equipped vehicles because of the intrusive and time-consuming nature of the test(s). EPA therefore believes that—with the exception of the gas cap pressure test—it is very unlikely non-OBD-based functional evaporative system testing will be well received for OBD-equipped vehicles, where the practical hurdles to performing the test are even higher. Specifically, unless an OBD-equipped vehicle has an evaporative emission ''service port,'' MY 1996 and later vehicles which are designed to meet the enhanced evaporative emission standard are even more difficult to conduct a functional I/M evaporative emission test on than pre-1996 model year vehicles. Should an alternative method be developed to conduct I/M evaporative emission tests on MY 1996 and newer, OBD-equipped vehicles, EPA will examine the viability of the alternative and make credit determinations appropriately.

Concerning New Jersey's suggestion that states be allowed to use the OBD–I/M test exclusively as a replacement for an evaporative system test before full OBD–I/M testing is otherwise required of the OBD-equipped fleet, EPA again points out that nothing in today's action prohibits such an approach. However, because the MIL will illuminate as a result of problems related to exhaust emission performance as well as evaporative emission performance, such a program would only selectively correct problems causing the MIL to illuminate. In some instances, if not corrected by the traditional I/M program repairs, the MIL may remain illuminated. We expect programs making early, partial use of the OBD system will need to provide consumers with extra information describing this partial use during a phase-in period so that, once the mandatory program is fully implemented, it will be clear that all problems causing MIL illumination need to be corrected.

G. OBD–I/M Failure Criteria

1. Summary of Proposal

EPA proposed to simplify the DTC-based OBD–I/M failure criteria to include any DTC that results in the MIL being commanded on. Additionally, in the event that the OBD scan reveals DTCs that have been set but for which the MIL has not been commanded on, EPA recommended that the motorist be advised that a problem may be pending but we did not propose to require that the vehicle be failed (unless other, non-DTC-based failure criteria have been met, such as a failed bulb check).

2. Summary of Comments

Nine commenters supported the simplified failure criteria proposed in the NPRM (Vermont, Missouri, Georgia, AAM, NADA, ASA, ESP, and ALA) while three commenters (Vermont, Illinois, and MEMA) expressed reservations regarding various aspects of the proposal. While Vermont generally supported the proposal, the State opposed EPA's recommendation that pending DTCs be printed on the test report of vehicles that otherwise pass the test, indicating the possible confusion this would cause the motorist. Illinois opposed failing vehicles based upon the bulb check, fearing that lane inspectors would confuse the MIL with other dashboard lights. MEMA suggested that EPA's proposed simplified failure criteria would result in failing vehicles for non-emission related malfunctions.

Two additional commenters (New York and New Hampshire) also supported the simplified failure criteria, but pointed out potential conflicts with other aspects of the OBD–I/M check requirements. Specifically, EPA was asked to determine: (1) Whether the bulb check conflicts with 40 CFR 85.2222 (a) which requires that the OBD–I/M check be conducted with the key-on/engine-running; and, (2) whether 40 CFR 51.357(d), which suggests that a damaged DLC would be grounds for rejecting a vehicle, conflicts with 40 CFR 85.2207(b), which indicates that a damaged DLC shall be grounds for failing the OBD–I/M check.

3. Response to Comments

Concerning Illinois' objection to the bulb check, although EPA recognizes that poorly trained lane personnel may become confused by the number of possible dashboard lights, the Agency does not believe this is likely provided training of lane personnel is adequate. Furthermore, EPA believes that allowing lane personnel to ignore whether or not the MIL is working establishes a bad precedent with regard to how seriously the general public responds to MIL-related issues and could diminish the emission control potential of the OBD system. Therefore, at this time, EPA has decided to require that the bulb check remain mandatory as described in the NPRM.

Regarding MEMA's claim that EPA's simplified failure criteria will result in vehicles being failed for non-emission related malfunctions, EPA does not believe that such will be the case. The whole purpose of the OBD system is to monitor components and systems which, should they deteriorate or malfunction, may result in emissions exceeding 1.5 times the vehicle's certification standards. When a DTC is set and a MIL illuminated, that is an indication that the deterioration or malfunction detected—if not corrected—may lead to emissions exceeding 1.5 times the certification standards. DTCs and MIL illumination are, by definition, indicators that emission-related repairs are needed. Furthermore, the OBD system, by warning the motorist of conditions that may lead to elevated emissions, can itself be considered an emission control device. Checks of the OBD system via the bulb check and electronic scan of the onboard computer are therefore necessary to ensure that the OBD system itself is operating properly.

Concerning whether or not the printing of pending DTCs would result in confusing the motorist, neither EPA nor Vermont has experience in this area. Because we do not know the likelihood of this potential confusion occurring, the Agency is revising its recommendation to allow individual states to determine for themselves whether or not to provide the motorist with a printout of pending DTCs.

Concerning the possible conflicts identified in the regulatory text, EPA has considered both of these comments and the rule text has been modified to ensure that there is no conflict in the final regulation on either of these issues.

H. OBD–I/M Rejection Criteria

1. Summary of Proposal

In reviewing data from Wisconsin's OBD–I/M program, EPA found that a small number of vehicles arriving at the test lane (between 1–6% of the OBD-equipped fleet, depending upon model year) were presented for testing with unset readiness codes which would normally be grounds for rejection under existing OBD–I/M rejection criteria. In investigating the issue, EPA found that the majority of vehicles with unset readiness codes were limited to the earliest of the OBD-equipped model years, and that the cause of the vehicle's unreadiness was largely beyond the control of the motorist. To avoid unnecessarily inconveniencing motorists as EPA works with manufacturers to resolve the readiness issues with these vehicles, the Agency proposed to allow states the flexibility to permit MY 1996–2000 vehicles with two or fewer unset readiness codes, and MY 2001 and newer vehicles with only one unset readiness code to complete their full OBD–I/M inspection without being rejected. These vehicles would not be exempt from other elements of the OBD–I/M check. EPA specified that the complete MIL check and scan would still be run in all cases, and that the vehicle would still be failed if the MIL was commanded on or any other failure criteria were met. Furthermore, under the proposal, the vehicle would continue to be rejected if it was MY 1996–2000 and had three or more unset readiness codes or was MY 2001 or newer and had two or more unset readiness codes. The proposal reflected a FACA OBD workgroup recommendation.

The proposed readiness exemptions were intended to reduce the potential for customer inconvenience during OBD–I/M testing. The environmental impact of the proposal was deemed negligible, based upon the small number of vehicles anticipated to be involved (i.e., the subset of OBD-equipped vehicles in I/M programs with no DTCs and two or fewer unset readiness codes at the time of testing), the likelihood that at least some of the readiness codes will be set in time for subsequent OBD–I/M checks, and the fact that an unset readiness code is not itself an indication of high emissions.

It should be pointed out that a certain level of unset readiness codes are a part of normal OBD operation. For example, when a battery is disconnected during battery replacement or other repair, all readiness monitors are temporarily reset to ''not ready.'' One of the purposes of the readiness code for I/M programs is to help determine whether an attempt has been made to fraudulently clear DTCs by disconnecting the battery prior to testing. EPA does not believe that the limited readiness exemptions allowed by today's action will interfere with OBD's ability to signal such activity because the number of unset readiness codes in instances of attempted fraud would almost certainly exceed the limited number allowed under the exemption.

In conjunction with the proposal, EPA also solicited public comment on alternative approaches to addressing the readiness issue—in particular, whether vehicles with unset readiness flags should receive a traditional tailpipe and/or evaporative system test and whether different tests should be required in lieu of the OBD–I/M test depending upon which readiness flag has not been set.

2. Summary of Comments

Comments on the readiness exemption proposal were received from 11 state agencies, five organized associations, one automobile manufacturer, one private citizen, and one I/M test industry representative. Of

the 19 commenters, seven supported the proposal for readiness exemptions but explicitly opposed back-up testing of vehicles with unset readiness codes: three states (New Hampshire, Vermont, and Georgia), three organized associations (AAMA, AIAM, and NADA), and one automobile manufacturer (Mitsubishi).

Four commenters (Illinois, Missouri, Pennsylvania, and AAA) supported the proposal for readiness code exemptions but expressed a desire for back-up testing for vehicles that exceed the proposed exemption limit. In its specific comments, Missouri indicated that it only supported the use of the IM240 and gas cap test as back-up tests, but did not support the use of other test types as back-up tests unless such tests were discounted based upon their poor correlation to the certification test. Missouri also suggested the possible use of back-up testing for vehicles with unset catalyst codes as a means for ensuring consumer protection, especially with regard to warranty coverage. AAA expressed concern about the rejection of vehicles with unset readiness codes that are not covered under the readiness exemption, citing the inconvenience and expense associated with having a dealership perform driving to set the readiness codes. Pennsylvania expressed the desire that states be allowed the discretion to conduct back-up testing to address the readiness issue with the following caveats: (1) Such back-up testing should not be applied to decentralized programs, and (2) there should be no loss of credit for those states that opt not to perform back-up testing.

Five commenters (New Jersey, Colorado, California, ALA, and Peter McClintock of Applied Analysis) opposed the readiness exemption proposal and supported the use of back-up testing for all vehicles with unset readiness codes. In its specific comments, New Jersey supported dual testing and using the OBD–I/M check as an enhancement to traditional tailpipe tests, identifying the readiness issue as a reason why the OBD–I/M check alone cannot be used to replace tailpipe tests. Specific comments from Colorado called for more flexibility and for the final rule to address: (1) The readiness on retest issue, and (2) the potential use of back-up IM240 testing at the time of retest. ALA cited manufacturer-to-manufacturer OBD strategy differences with regard to readiness as a deficiency with the OBD concept. Peter McClintock of Applied Analysis claimed that unready vehicles have statistically higher emissions (see discussion and response under ''Reducing the Testing Burden'' earlier in this action) and called for EPA to study the difference between advisory-only versus mandatory-repair OBD–I/M programs with regard to readiness variance and the emission impact of exempting some not-ready vehicles. McClintock also requested that data collection requirements proposed for deletion be restored and that EPA add additional requirements to track readiness data.

Lastly, two commenters (Alaska and Maryland) raised more general issues related to the rejection criteria for the OBD–I/M check. In its specific comments, Alaska called the proposed readiness exemption a ''one-size-fits-all'' approach and indicated that it wants the flexibility to do a tailpipe-only test on MY 1996–97 vehicles due to DLC location and readiness inconsistencies among vehicles in those model years. The State also indicated that it wants the flexibility to tailor the OBD–I/M check based upon the pollutant a state needs to address (citing as an example the desire that CO-only areas be allowed to ignore evaporative system readiness). Maryland, in turn, requested more information and guidance with regard to drive cycles, exercising monitors, and setting readiness codes, while also claiming that most unset readiness flags are for evaporative system and catalyst monitors, which means that states could ultimately have problems meeting their clean air goals. Maryland also requested information concerning the names and numbers of vehicles that have readiness problems being addressed by the manufacturers.

3. Response to Comments

As a preface for the discussion to follow, EPA wants to make clear that the flexibility allowed by today's action is intended exclusively to avoid inconveniencing motorists for vehicle conditions that are beyond their control, and that are currently the subject of discussion between EPA and various manufacturers and in some cases may result in potential enforcement action. The purpose of today's action is not to relieve manufacturers of their responsibility to design and market OBD systems that comply with existing OBD certification requirements. To help emphasize this point, EPA clarifies here that the obligations of the automobile manufacturers with regard to OBD equipment are specified in regulatory section 40 CFR 86.094–17(e)(1): ''Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Regulations Requiring On-Board Diagnostic Systems on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks,'' which imposes, among other things, the obligation to design, build and certify OBD systems that: ''record code(s) indicating the status of the emission control system. Absent the presence of any fault codes, separate status codes shall be used to identify correctly functioning emission control systems and those emission control systems which need further vehicle operation to be fully evaluated.'' In promulgating these requirements on February 19, 1993 the Agency stated: ''The readiness code will ensure I/M testing personnel and service technicians that malfunction codes have not been cleared since the last OBD check of the vehicle's emission-related control systems. This code will be essential * * * since I/M personnel must be sure that the OBD system has sufficient time to completely check all components and systems. The readiness code is also crucial for indicating to service personnel whether any repairs have been conducted properly.'' Nothing in today's action in any way changes or otherwise impacts these obligations on the part of vehicle manufacturers. In fact, EPA has already initiated several investigations which may result in enforcement actions related to these requirements.

In addition to the certification requirements for OBD systems discussed above, EPA separately promulgated test procedures to be used by state I/M programs when conducting the OBD–I/M check. These I/M-centered OBD requirements were originally promulgated back in 1996, and are the requirements that are being amended by today's action. With regard to readiness, the procedures promulgated back in 1996 required that all readiness codes be set to ''ready'' prior to conducting a valid OBD–I/M inspection. At the time this requirement was established, the earliest OBD-equipped model years were just entering the market and EPA had no experience with regard to how practical this readiness requirement would be in practice. Since that time, however, EPA has conducted several studies of OBD–I/M effectiveness and assorted implementation issues (as discussed in the preamble to the September 20, 2000 NPRM and the TSD for today's action) and has found that flexibility is needed with regard to the readiness requirement to help prevent needlessly inconveniencing motorists. Although the number of OBD-equipped vehicles with unset readiness codes at the time of initial testing is small even without the flexibility allowed by

today's action (i.e., 1–6% of the OBD-equipped fleet, depending on model year), as a policy matter, EPA finds it reasonable to provide states with the limited flexibility proposed in its September 20, 2000 NPRM and finalized by today's action. This flexibility applies to I/M programs only, and does not explicitly or implicitly impact manufacturers or their obligations with regard to OBD equipment. As noted above, manufacturers continue to have any and all liabilities previously established before today's action with regard to the performance of their OBD systems.

With regard to the use of back-up testing in the case of vehicles which do not meet the revised readiness criteria, the agency believes that proper use of this option is limited. Review of the Wisconsin pilot data indicates that at most 1 to 2 percent of the OBD-equipped fleet would qualify as exceeding the ''not ready'' criteria promulgated in today's final rule, and that number is declining. While the Agency believes that the best method for dealing with these vehicles is to reject them and allow the unset readiness monitors to be subsequently set, the use of state discretion in dealing with this issue is allowed. However, the Agency advises areas adopting back-up testing to address the readiness issue that they need to monitor the frequency of such back-up testing to ensure that motorists are not purposefully clearing codes prior to testing in an attempt to avoid the OBD–I/M inspection.

EPA emphasizes that the purpose of today's action is to provide some flexibility to vehicle owners and state programs without impairing the overall environmental benefits achieved by OBD implementation in I/M programs. Because manufacturers are still required to certify their vehicles as meeting all readiness code requirements, and are equally responsible for the proper operation of their OBD systems in-use, EPA does not believe that the flexibility added by today's rule will affect the value of the OBD system for both the vehicle owner and State I/M programs. It is recognized that fully functional OBD systems may periodically display not-ready codes when presented at an I/M test. Nevertheless, EPA believes that a fully functional system will eventually detect any problems in vehicle emission control systems and that such problems would certainly be detected during the next I/M inspection. If the system is not functional as a result of an inherent defect within the particular vehicle model or engine family then EPA anticipates such functional issues will be corrected either by a manufacturer or through EPA's enforcement programs.

In response to commenters supporting the readiness exemption proposal but opposing the use of back-up tailpipe testing, the Agency agrees. EPA believes that many of the current issues associated with implementation of the OBD–I/M check reflect a learning curve with respect to OBD, given that OBDII has only been a universal requirement for light-duty vehicles and trucks sold in this country since 1996. The Agency believes that increased familiarity with the technology on the part of the testing and repair communities as well as public education and outreach efforts will go a long way toward mitigating many of these issues. EPA therefore hopes that the states and I/M testing contractors will perform diligently in executing OBD–I/M programs and resolve manageable issues in consultation with EPA and the manufacturers.

In response to Missouri and other commenters advocating the use of back-up testing for vehicles exceeding the proposed readiness exemption criteria, EPA reiterates its position that states may use discretion in dealing with this issue and, thus, the flexibility exists for a state to use back-up testing with no change in credit. However, if a state feels it should receive additional credit for conducting back-up testing of any type, the state must make the case to EPA for additional credit by demonstrating and determining the amount of additional credit it claims, which EPA will evaluate through the SIP approval process.

In response to specific comments from AAA concerning the inconvenience of setting readiness codes for non-exempted, ''not ready'' vehicles, EPA has attempted to identify those vehicles that may have specific issues with readiness setting and is working with manufacturers to address those vehicles. Those vehicles which fall outside of the category of identified problem vehicles should experience proper readiness setting during normal vehicle operation and should not require special exemptions beyond those already proposed. Furthermore, although it is still possible that some vehicles may arrive for testing with unset readiness codes due to factors such as vehicle operation and the timing of repairs in relation to the OBD–I/M check, EPA believes proper outreach encouraging appropriate repair verification and sufficient lead time in seeking repairs should alleviate this problem. In addition, many technicians are trained or encouraged to perform proper repair verification by driving the vehicle before returning it to the customer to check whether readiness codes have been set and whether any of the DTCs leading to the original MIL illumination recur, post-repair. However, since this kind of repair verification is not a required practice, consumers should insist that service facilities follow best practices in performing repairs or seek repair facilities that will follow best practices.

In response to the commenters who oppose the readiness exemption proposal and want back-up testing for all vehicles with unset readiness codes, the Agency believes that the use of the OBD–I/M check exclusively for MY 1996 and newer vehicles is an acceptable means of evaluating this segment of the vehicle fleet and that use of back-up tailpipe testing has limited applicability. However, the Agency does not prohibit states from using their discretion in addressing this issue and the other issues mentioned by these commenters.

In response to specific comments from New Jersey, EPA's review of pilot data from Wisconsin indicate that at most 1 to 2 percent of the OBD-equipped fleet may qualify as exceeding the not-ready exemption criteria established by today's action, and that number is declining. Therefore, the readiness issue applies only to a small part of the fleet and there is little basis to support the claim that the OBM–I/M check cannot replace traditional I/M testing for OBD-equipped vehicles. Furthermore, it should be pointed out that traditional I/M tests also have known problems with regard to the testability of certain vehicles. For example, four wheel drive vehicles and vehicles with traction control cannot be tested on loaded-mode tests that use two wheel drive dynamometers, and some vehicles with automatic transmission cannot be tested using the two-speed idle test. Despite these testability issues, however, states have nevertheless successfully implemented traditional I/M programs. The number of vehicles involved in these cases equal or exceed the number of vehicles identified as having unset readiness codes at the time of initial testing. EPA therefore does not believe that readiness and its implications for testability represent a unique issue with regard to the OBM–I/M check.

In response to Alaska's request to exclude MY 1996–97 vehicles from OBM–I/M testing because of concerns regarding DLC location and readiness issues associated with those model years, EPA believes the concerns at the base of this request have been largely addressed by the flexibility allowed

under today's rule. Furthermore, study has shown that the readiness issue diminishes with time as more vehicles set their readiness monitors in normal operation. Regarding DLC locations issues, experience has shown that this issue diminishes quickly as inspectors and technicians become proficient. Additionally, comprehensive databases on DLC locations have been made available and are already proving to significantly reduce DLC location problems in the field. It is also important to note that the CAA requires the use of OBM–I/M checks of vehicles so equipped, and EPA does not see a supportable justification for excluding these earlier OBD-equipped model years from the statutory OBM–I/M testing requirement. EPA therefore expects that states which perform OBM–I/M testing will use the OBD scan for 1996 and 1997 vehicles as required.

Regarding Alaska's desire to ignore DTCs and/or readiness codes not directly related to the particular pollutant for which an area has been designated non-attainment, EPA does not believe the CAA's requirement that OBD systems be inspected and that malfunctions and/or deterioration identified by such systems be repaired allows for this kind of discretion. Furthermore, allowing such discretion would largely invalidate the early-warning capacity of OBD through the MIL eclipsing effect discussed elsewhere, and would also send mixed signals with regard to responding to the MIL. Lastly, the emission control systems on OBD-equipped vehicles are complex, integrated, and inter-related systems; malfunction in one area can quickly lead to malfunctions in other areas, so that what starts as an HC problem can rapidly become a CO problem if not dealt with in a timely manner. Assuming that vehicle malfunctions can be segregated into pollutant-specific bins grossly over-simplifies what is, in fact, a complex and inter-dependent system.

In response to comments from Maryland on several vehicle-specific issues, EPA has identified those vehicles that currently have readiness issues and has included a list of these vehicles as an appendix to the guidance document entitled ''Performing Onboard Diagnostic System Checks as Part of a Vehicle Inspection and Maintenance Program'' (which is available online at the following web address: www.epa.gov/otaq/regs/im/obd/obd-im.htm). In addition, the manufacturers that have identified readiness issues have already been required to make publicly available technical service bulletins detailing the specific issue, model year coverage, specific makes and models, and any available diagnostic information (i.e., driving cycle or operational information) to aid in setting the readiness codes. Also, EPA is currently drafting a separate NPRM to propose changes to the Service Information Rule (40 CFR 40474, August, 1995) that will include requirements for manufacturers to provide diagnostic drive cycles in their service manuals to aid technicians in exercising monitors and setting readiness codes. Finally, in response to concern that readiness exemptions could lead to difficulty in meeting clean air goals, EPA reiterates that the number of OBD-equipped vehicles with unset readiness codes is quite small, and is declining. Furthermore, the subset of OBD-equipped vehicles with unset readiness codes which actually have emission problems that go unidentified because of these unset readiness codes is expected to be even smaller, and will eventually be identified once the readiness codes in question are set.

Lastly, in response to the request from Peter McClintock of Applied Analysis that the data collection items proposed for deletion be restored in the final rule, EPA has restored those data collection elements that would be applicable to those areas that opt to include some form of dual testing, whether as a back-up test for vehicles with unset readiness codes, or as a potential source of additional credit (per earlier discussion under ''Reducing the Testing Burden''). EPA has added a caveat, however, that these elements are to be gathered only where applicable.

I. Applicability of Repair Waivers for OBD-equipped Vehicles

1. Summary of Recommendation

Currently, both the CAA and the existing I/M rule provide a minimum expenditure value for state programs which allow the waiver of vehicles failing the I/M inspection from further repair obligation for one test cycle once a certain, minimum amount has been spent on relevant repairs. For basic I/M programs, these minimum expenditures are $75 for pre-1981 model year vehicles, and $200 for MY 1981 and newer vehicles; for enhanced I/M programs, the Act specifies a minimum expenditure for all vehicles of $450 adjusted to reflect the difference in the Consumer Price Index (CPI) between the previous year and 1989. Neither the rule nor the Act specifically addresses the OBM–I/M check when it comes to qualifying for waivers. However, the Act clearly states that the minimum amount to qualify for a waiver applies to any failure. Thus, EPA lacks the legal authority to prohibit states from allowing MY 1996 and newer, OBD-equipped vehicles to qualify for waivers. Nevertheless, in its September 20, 2000 NPRM, EPA recommended (but did not require) that states not allow MY 1996 and newer, OBD-equipped vehicles to be waived prior to receiving repairs to extinguish the MIL and clear any DTCs for which the MIL was illuminated. EPA also recommended that states consider providing repair subsidies or some other form of financial assistance to address hardship cases for OBD-identified failures that would otherwise be addressed through the waiver process.

EPA made this recommendation because of the fundamental difference between how OBD-equipped vehicles and non-OBD-equipped vehicles are diagnosed and repaired. EPA expressed its belief that the minimum expenditure waiver makes sense for traditional tailpipe and/or evaporative emission test based repairs because such tests provide little concrete information concerning the specific cause of failure. Therefore, the waiver helps protect consumers from trial-and-error repairs that amount to little more than throwing parts at an insufficiently isolated problem. OBD, on the other hand, is specifically designed to help limit the opportunity for trial-and-error repairs by linking DTCs to specific components and subsystems. OBD does not just tell the repair technician that there is a problem, but also identifies what kind of problem and approximately where in the overall system it is occurring. The Agency also believes that the most successful use of the OBD system will result in motorists routinely responding to the MIL when first illuminated, as soon as a problem with the potential to produce high emissions is detected and before successful repair becomes more costly. A program which allows repair waivers should take care so as not to discourage this immediate and routine motorist response to an illuminated MIL, which could occur if motorists postpone necessary repairs in hopes that the subsequent I/M program inspection will render such repairs ''unnecessary'' because of the waiver option.

2. Summary of Comments

A total of 15 commenters responded to the Agency's waiver recommendations for OBD equipped vehicles—ten supporting the recommendation, and five opposing. Four states (New Hampshire, Vermont, Missouri, and New York) expressed support for EPA's recommendation, while Missouri suggested specific

waiver flexibility options that meet that state's specific needs. Four commenters representing the automobile industry (APSA, AIAM, NADA, and ASA) submitted supporting comment with most noting the need for hardship exemptions or subsidies where waivers are disallowed. APSA also noted the need to actively promote owner response to MILs before inspection. Two other commenters (ESP and ALA) also supported EPA's recommendation, and suggested that the Agency reconsider its policy concerning model year exemptions to encourage prompt motorist response to illuminated MILs.

Four states (Massachusetts, Alaska, Maryland, and California) and AAA disagreed with EPA's recommendation. Both Massachusetts and Alaska expressed concern that waivers might be necessary for older, high mileage vehicles. AAA noted that waivers are a means of consumer protection and that although EPA recommends states provide financial assistance in hardship cases, there is no guarantee that states will offer such assistance.

3. Response to Comments

EPA's position with regard to waiver policy for OBD vehicles is presented only as a recommendation, not a requirement, as noted in the proposal for this rule. The CAA clearly provides states the flexibility to offer waivers for any failure as long as the minimum expenditure requirements are met. Section 51.360 of the I/M rule further clarifies waiver issuance criteria and those requirements are not being amended in any way with this action today. The Agency's recommendation—that states consider prohibiting OBD-equipped vehicles from receiving waivers—is based on the inherent differences between how the OBD–I/M check and traditional I/M tests identify vehicles in need of repair. The basis for that recommendation was detailed in the ''Summary of Proposal'' above and will not be restated here. Nevertheless, EPA did request comments or suggestions on alternative recommendations. The majority of commenters supported EPA's recommendation and concurred that special considerations should be made for hardship cases. The flexibility options suggested by at least one state are just that—flexibilities that states may opt to use at their discretion, as long as minimum monetary waiver requirements are met. Obviously, states opposed to the recommendation may elect to provide waivers, as long as statutory and regulatory waiver requirements are met. With regard to concerns that OBD induced repairs may not be cost effective or may be more inequitable for low income motorists than is the case with tailpipe testing, EPA does not agree. Studies have shown that average repair costs for OBD-identified failures do not generally differ from average repairs that result from tailpipe testing. In fact, the Agency maintains that OBD-identified repairs have the potential to be more effective because of the targeted diagnosis which the technology offers. The Agency asks that states take the above factors into consideration in determining how best to address the waiver issue with regard to MY 1996 and newer, OBD-equipped vehicles.

Regarding the suggestion made by ESP and ALA that EPA consider eliminating new model year exemptions for OBD-equipped vehicles, the Agency does not have the legal authority to establish such a restriction. Nevertheless, EPA appreciates the rationale for wanting to catch OBD-identified failures as soon as possible and agrees that early inspection of OBD-equipped vehicles could serve as an incentive to stimulate timely motorist response to illuminated MILs. Furthermore, early inspection of OBD-equipped vehicles could help ensure that OBD-identified failures are addressed within the warranty period for such repairs, thus providing not only environmental protection, but also consumer protection. Lastly, given the speed with which the OBD–I/M check can be performed, the Agency believes the additional testing burden could be modest, and may be worth states' reconsidering their model year coverage, given the potential benefits discussed above.

V. Discussion of Major Issues

A. Emission Impact of the Proposed Amendments

Today's action clarifies existing flexibility currently available to states with regard to exempting specific model years from specific program requirements. It also provides an incentive for states to optimize the efficiency and cost effectiveness of their existing programs. Based upon its pilot testing, EPA believes that a program relying on OBD–I/M checks for MY 1996 and newer, OBD-equipped vehicles will just as effectively identify problem vehicles as any existing program combining IM240 exhaust testing with evaporative system purge and fill-neck pressure tests. However, nothing in today's action bars states from continuing their existing I/M tests in conjunction with OBD–I/M testing on MY 1996 and newer, OBD-equipped vehicles, should they so desire.

Data and analyses currently available to EPA are insufficient to establish any additional HC, CO, or NO_X credit due to conducting loaded mode tests such as the ASM or IM240 in conjunction with the OBD–I/M test. As currently designed, the OBD monitoring strategy manufacturers are employing to determine catalyst efficiency tends to be optimized for identifying deterioration or malfunctions leading to increased HC emissions. EPA believes that the catalyst problems which would impact CO or NO_X performance would also tend to impact HC emission performance. However, some vehicles may be more sensitive to CO or NO_X deterioration and therefore could fail for these pollutants under a traditional I/M exhaust test before deterioration of the catalyst's HC conversion efficiency was great enough to be detected by current catalyst OBD monitoring strategies. Furthermore, it is also possible that states that choose to engage in limited dual testing of vehicles with unset readiness monitors may also identify some additional high HC, CO, and/or NO_X emitters that would otherwise be missed by OBD-only testing under the limited unset readiness exemption provided in today's action. Because we see no good regulatory reason to prohibit a state from voluntarily pursuing such additional emission benefits, EPA invites interested states to develop the information necessary to quantify any additional SIP credit for either full or limited dual testing, based upon actual, operating program data. EPA will determine the adequacy of these demonstrations through rulemaking on a case-by-case basis.

B. Impact on Existing and Future I/M Programs

States with approved I/M SIPs will not have to remodel the emission reduction potential of their I/M programs if they choose to exempt MY 1996 and newer, OBD-equipped vehicles from traditional I/M tests in favor of mandatory OBD–I/M checks on those same vehicles, provided no other programmatic changes are made. If, however, a state chooses to modify its program another way, then a revised I/M SIP and new modeling may be necessary. Nevertheless, it is important to note that today's action is aimed at lessening the overall burden on states while also improving program efficiency and cost effectiveness; the action does not increase the existing burden on states, provided states do not make other changes to their programs.

VI. Economic Costs and Benefits

Today's action provides states with an incentive to increase the cost effectiveness and efficiency of their existing I/M programs. The action will lessen rather than increase the potential economic burden on states. Most significantly, today's action allows states the discretion to suspend traditional I/M tests on MY 1996 and newer, OBD-equipped vehicles in favor of conducting the OBD–I/M check on these same vehicles. This constitutes a net lessening of the burden relative to the requirement in place prior to today's action (i.e., that MY 1996 and newer, OBD-equipped vehicles receive both the traditional I/M test(s) and the OBD–I/M check). Furthermore, states are under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of today's action.

VII. Administrative Requirements

A. Administrative Designation

It has been determined that these amendments to the I/M rule do not constitute a significant regulatory action under the terms of Executive Order 12866 and this action is therefore not subject to OMB review. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950) as amended. Nor do these amendments create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. This action is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no additional information requirements in these amendments which require the approval of the Office of Management and Budget under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as including small government jurisdictions, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' The basic and enhanced I/M requirements however only apply to urbanized areas with population in excess of either 100,000 or 200,000 depending on location.

Therefore, after considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities, since all jurisdictions effected by the rule exceed the definition of small government jurisdictions. Furthermore, the impact created by this action does not increase the preexisting burden of the existing rules which this action amends.

D. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule. To the extent that today's action would impose any mandate at all as defined in section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, as explained above, this rule is not estimated to impose costs in excess of $100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that enable them to lower economic burdens relative to those resulting from the currently existing I/M rule which today's action amends.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Today's action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. On the contrary, the intent of today's amendments is to provide states greater flexibility with regard to pre-existing regulatory requirements for vehicle inspection and maintenance (I/M) programs. Thus, the requirements of section 6 of the Executive Order do not apply to this proposal.

F. Consultation and Coordination With Indian Tribal Governments

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. EPA developed this final rule, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal

governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's action does not significantly or uniquely affect the communities of Indian tribal governments. Today's action does not create a mandate on tribal governments or create any additional burden or requirements for tribal government. The action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposal.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. Today's action is not subject to Executive Order 13045 because it is not economically significant under Executive Order 12866 and because it is based on technology performance and not on health or safety risks.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This rule is not a ''major rule'' as defined by 5 U.S.C. 804 (2).

J. Judicial Review

Under section 307(b)(1) of the Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication in the **Federal Register**. Under section 307(b)(2) of the Act, the requirements which are the subject of today's rule may not be challenged later in judicial proceedings brought by EPA to enforce these requirements. This rulemaking and any petitions for review are subject to the provisions of section 307(d) of the Clean Air Act.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds, Transportation.

40 CFR Part 85

Environmental protection, Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: March 28, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, part 51 and 85 of chapter I, title 40 of the Code of Federal Regulations are amended to read as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.351 is amended by revising paragraph (c) to read as follows:

§ 51.351 Enhanced I/M performance standard.

* * * * *

(c) *On-board diagnostics (OBD).* The performance standard shall include inspection of all 1996 and later light-duty vehicles and light-duty trucks equipped with certified on-board diagnostic systems, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in § 51.357. For States using some version of MOBILE5 prior to mandated use of the MOBILE6 and subsequent versions of EPA's mobile source emission factor model, the OBD–I/M portion of the State's program as well as the applicable enhanced I/M performance standard may be assumed to be equivalent to performing the evaporative system purge test, the evaporative system fill-neck pressure test, and the IM240 using grams-per-mile (gpm) cutpoints of 0.60 gpm HC, 10.0 gpm CO, and 1.50 gpm NO_X on MY 1996 and newer vehicles and assuming a start date of January 1, 2002 for the OBD–I/M portion of the performance standard. This interim credit assessment does not add to but rather replaces credit for any other test(s) that may be performed on MY 1996 and newer

vehicles, with the exception of the gas-cap-only evaporative system test, which may be added to the State's program to generate additional HC reduction credit. This interim assumption shall apply even in the event that the State opts to discontinue its current I/M tests on MY 1996 and newer vehicles in favor of an OBD–I/M check on those same vehicles, with the exception of the gas-cap evaporative system test. If a State currently claiming the gas-cap test in its I/M SIP decides to discontinue that test on some segment of its subject fleet previously covered, then the State will need to revise its SIP and I/M modeling to quantify the resulting loss in credit, per established modeling policy for the gas-cap pressure test. Once MOBILE6 is released and its use required, the interim, MOBILE5-based modeling methodology described in this section will be replaced by the OBD–I/M credit available from the MOBILE6 and subsequent mobile source emission factor models.

* * * * *

3. Section 51.352 is amended by revising paragraph (c) to read as follows:

§ 51.352 Basic I/M performance standard.

* * * * *

(c) *On-board diagnostics (OBD).* The performance standard shall include inspection of all 1996 and later light-duty vehicles equipped with certified on-board diagnostic systems, and repair of malfunctions or system deterioration identified by or affecting OBD systems as specified in § 51.357. For States using some version of MOBILE5 prior to mandated use of the MOBILE6 and subsequent versions of EPA's mobile source emission factor model, the OBD–I/M portion of the State's program as well as the applicable I/M performance standard may be assumed to be equivalent to performing the evaporative system purge test, the evaporative system fill-neck pressure test, and the IM240 using grams-per-mile (gpm) cutpoints of 0.60 gpm HC, 10.0 gpm CO, and 1.50 gpm NO_X on MY 1996 and newer vehicles and assuming a start date of January 1, 2002 for the OBD–I/M portion of the performance standard. This interim credit assessment does not add to but rather replaces credit for any other test(s) that may be performed on MY 1996 and newer vehicles, with the exception of the gas-cap-only evaporative system test, which may be added to the State's program to generate additional HC reduction credit. This interim assumption shall apply even in the event that the State opts to discontinue its current I/M tests on MY 1996 and newer vehicles in favor of an OBD–I/M check on those same vehicles, with the exception of the gas-cap evaporative system test. If a State currently claiming the gas-cap test in its I/M SIP decides to discontinue that test on some segment of its subject fleet previously covered, then the State will need to revise its SIP and I/M modeling to quantify the resulting loss in credit, per established modeling policy for the gas-cap pressure test. Once MOBILE6 is released and its use required, the interim, MOBILE5-based modeling methodology described in this section will be replaced by the OBD–I/M credit available from the MOBILE6 and subsequent mobile source emission factor models.

* * * * *

4. Section 51.356 is amended by adding a new paragraph (a)(6) to read as follows:

§ 51.356 Vehicle coverage.

* * * * *

(a) * * *

(6) States may also exempt MY 1996 and newer OBD-equipped vehicles that receive an OBD–I/M inspection from the tailpipe, purge, and fill-neck pressure tests (where applicable) without any loss of emission reduction credit.

* * * * *

5. Section 51.357 is amended by revising paragraphs (a)(5), (a)(12), (b)(1), (b)(4) and (d) introductory text to read as follows:

§ 51.357 Test procedures and standards.

* * * * *

(a) * * *

(5) Vehicles shall be rejected from testing if the exhaust system is missing or leaking, or if the vehicle is in an unsafe condition for testing. Coincident with mandatory OBD–I/M testing and repair of vehicles so equipped, MY 1996 and newer vehicles shall be rejected from testing if a scan of the OBD system reveals a ''not ready'' code for any component of the OBD system. At a state's option it may choose alternatively to reject MY 1996–2000 vehicles only if three or more ''not ready'' codes are present and to reject MY 2001 and later model years only if two or more ''not ready'' codes are present. This provision does not release manufacturers from the obligations regarding readiness status set forth in 40 CFR 86.094–17(e)(1): ''Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Regulations Requiring On-Board Diagnostic Systems on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks.'' Once the cause for rejection has been corrected, the vehicle must return for testing to continue the testing process. Failure to return for testing in a timely manner after rejection shall be considered non-compliance with the program, unless the motorist can prove that the vehicle has been sold, scrapped, or is otherwise no longer in operation within the program area.

* * * * *

(12) *On-board diagnostic checks.* Beginning January 1, 2002, inspection of the on-board diagnostic (OBD) system on MY 1996 and newer light-duty vehicles and light-duty trucks shall be conducted according to the procedure described in 40 CFR 85.2222, at a minimum. This inspection may be used in lieu of tailpipe, purge, and fill-neck pressure testing. Alternatively, states may elect to phase-in OBD–I/M testing for one test cycle by using the OBD–I/M check to screen clean vehicles from tailpipe testing and require repair and retest for only those vehicles which proceed to fail the tailpipe test. An additional alternative is also available to states with regard to the deadline for mandatory testing, repair, and retesting of vehicles based upon the OBD–I/M check. Under this third option, if a state can show good cause (and the Administrator takes notice-and-comment action to approve this good cause showing as a revision to the State's Implementation Plan), up to an additional 12 months' extension may be granted, establishing an alternative start date for such states of no later than January 1, 2003. States choosing to make this showing will also have available to them the phase-in approach described in this section, with the one-cycle time limit to begin coincident with the alternative start date established by Administrator approval of the showing, but no later than January 1, 2003. The showing of good cause (and its approval or disapproval) will be addressed on a case-by-case basis by the Administrator.

* * * * *

(b) *Test standards*—(1) *Emissions standards.* HC, CO, and $CO+CO_2$ (or CO_2 alone) emission standards shall be applicable to all vehicles subject to the program with the exception of MY 1996 and newer OBD-equipped light-duty vehicles and light-duty trucks, which will be held to the requirements of 40 CFR 85.2207, at a minimum. Repairs shall be required for failure of any standard regardless of the attainment status of the area. NO_X emission standards shall be applied to vehicles subject to a loaded mode test in ozone nonattainment areas and in an ozone transport region, unless a waiver of NO_X controls is provided to the State under § 51.351(d).

* * * * *

(4) *On-board diagnostic test standards.* Vehicles shall fail the on-board diagnostic test if they fail to meet the requirements of 40 CFR 85.2207, at a minimum. Failure of the on-board diagnostic test need not result in failure of the vehicle inspection/maintenance test until January 1, 2002. Alternatively, states may elect to phase-in OBD–I/M testing for one test cycle by using the OBD–I/M check to screen clean vehicles from tailpipe testing and require repair and retest for only those vehicles which proceed to fail the tailpipe test. An additional alternative is also available to states with regard to the deadline for mandatory testing, repair, and retesting of vehicles based upon the OBD–I/M check. Under this third option, if a state can show good cause (and the Administrator takes notice-and-comment action to approve this good cause showing), up to an additional 12 months' extension may be granted, establishing an alternative start date for such states of no later than January 1, 2003. States choosing to make this showing will also have available to them the phase-in approach described in this section, with the one-cycle time limit to begin coincident with the alternative start date established by Administrator approval of the showing, but no later than January 1, 2003. The showing of good cause (and its approval or disapproval) will be addressed on a case-by-case basis.

* * * * *

(d) *Applicability.* In general, section 203(a)(3)(A) of the Clean Air Act prohibits altering a vehicle's configuration such that it changes from a certified to a non-certified configuration. In the inspection process, vehicles that have been altered from their original certified configuration are to be tested in the same manner as other subject vehicles with the exception of MY 1996 and newer, OBD-equipped vehicles on which the data link connector is missing, has been tampered with or which has been altered in such a way as to make OBD system testing impossible. Such vehicles shall be failed for the on-board diagnostics portion of the test and are expected to be repaired so that the vehicle is testable. Failure to return for retesting in a timely manner after failure and repair shall be considered non-compliance with the program, unless the motorist can prove that the vehicle has been sold, scrapped, or is otherwise no longer in operation within the program area.

* * * * *

6. Section 51.358 is amended by revising paragraph (a)(1) to read as follows:

§ 51.358 Test equipment.

* * * * *

(a) * * *

(1) Emission test equipment shall be capable of testing all subject vehicles and shall be updated from time to time to accommodate new technology vehicles as well as changes to the program. In the case of OBD-based testing, the equipment used to access the onboard computer shall be capable of testing all MY 1996 and newer, OBD-equipped light-duty vehicles and light-duty trucks.

* * * * *

7. Section 51.366 is amended by revising paragraphs (a)(2)(xi), (a)(2)(xii), (a)(2)(xiii), (a)(2)(xiv), (a)(2)(xv), (a)(2)(xvi), (a)(2)(xvii), and (a)(2)(xviii) to read as follows:

§ 51.366 Data analysis and reporting.

* * * * *

(a) * * *

(2) * * *

(xi) Passing the on-board diagnostic check;

(xii) Failing the on-board diagnostic check;

(xiii) Failing the on-board diagnostic check and passing the tailpipe test (if applicable);

(xiv) Failing the on-board diagnostic check and failing the tailpipe test (if applicable);

(xv) Passing the on-board diagnostic check and failing the I/M gas cap evaporative system test (if applicable);

(xvi) Failing the on-board diagnostic check and passing the I/M gas cap evaporative system test (if applicable);

(xvii) Passing both the on-board diagnostic check and I/M gas cap evaporative system test (if applicable);

(xviii) Failing both the on-board diagnostic check and I/M gas cap evaporative system test (if applicable);

* * * * *

8. Section 51.373 is amended by revising paragraph (g) to read as follows:

§ 51.373 Implementation deadlines.

* * * * *

(g) On-Board Diagnostic checks shall be implemented in all basic, low enhanced and high enhanced areas as part of the I/M program by January 1, 2002. Alternatively, states may elect to phase-in OBD–I/M testing for one test cycle by using the OBD–I/M check to screen clean vehicles from tailpipe testing and require repair and retest for only those vehicles which proceed to fail the tailpipe test. An additional alternative is also available to states with regard to the deadline for mandatory testing, repair, and retesting of vehicles based upon the OBD–I/M check. Under this third option, if a state can show good cause (and the Administrator takes notice-and-comment action to approve this good cause showing), up to an additional 12 months' extension may be granted, establishing an alternative start date for such states of no later than January 1, 2003. States choosing to make this showing will also have available to them the phase-in approach described in this section, with the one-cycle time limit to begin coincident with the alternative start date established by Administrator approval of the showing, but no later than January 1, 2003. The showing of good cause (and its approval or disapproval) will be addressed on a case-by-case basis.

PART 85—CONTROL OF AIR POLLUTION FROM MOBILE SOURCES

9. The authority citation for part 85 is revised to read as follows:

Authority: 42 U.S.C. 7401–7671q.

10. Section 85.2207 is amended by revising paragraph (d) to read as follows:

§ 85.2207 On-board diagnostics test standards.

* * * * *

(d) A vehicle shall fail the on-board diagnostics test if the malfunction indicator light is commanded to be illuminated for one or more OBD diagnostic trouble codes (DTCs), as defined by SAE J2012. The procedure shall be done in accordance with SAE J2012 Diagnostic Trouble Code Definitions, (MAR92). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of SAE J2012 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001. Copies may be inspected at the EPA Docket No. A–94–21 at EPA's Air Docket, (LE–131) Room 1500 M, 1st Floor, Waterside Mall, 401 M Street SW, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

* * * * *

11. Section 85.2222 is amended by revising paragraphs (a), (c), (d)(1) and (d)(2) and by adding new paragraph (d)(4) to read as follows:

§ 85.2222 On-board diagnostic test procedures.

* * * * *

(a) The on-board diagnostic inspection shall be conducted with the key-on/engine running (KOER), with the exception of inspecting for MIL illumination as required in paragraph

(d)(4) of this section, during which the inspection shall be conducted with the key-on/engine off (KOEO).

* * * * *

(c) The test system shall send a Mode $01, PID $01 request in accordance with SAE J1979 to determine the evaluation status of the vehicle's on-board diagnostic system. The test system shall determine what monitors are supported by the on-board diagnostic system, and the readiness evaluation for applicable monitors in accordance with SAE J1979. The procedure shall be done in accordance with SAE J1979 ''E/E Diagnostic Test Modes,'' (DEC91). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of SAE J1979 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001. Copies may be inspected at the EPA Docket No. A–94–21 at EPA's Air Docket (LE–131), Room 1500 M, 1st Floor, Waterside Mall, 401 M Street SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(1) Coincident with the beginning of mandatory testing, repair, and retesting based upon the OBD–I/M check, if the readiness evaluation indicates that any on-board tests are not complete the customer shall be instructed to return after the vehicle has been run under conditions that allow completion of all applicable on-board tests. If the readiness evaluation again indicates that any on-board test is not complete the vehicle shall be failed.

(2) An exception to paragraph (c)(1) of this section is allowed for MY 1996 to MY 2000 vehicles, inclusive, with two or fewer unset readiness monitors, and for MY 2001 and newer vehicles with no more than one unset readiness monitor. Vehicles from those model years which would otherwise pass the OBD inspection, but for the unset readiness code(s) in question may be issued a passing certificate without being required to operate the vehicle in such a way as to activate those particular monitors. Vehicles from those model years with unset readiness codes which also have diagnostic trouble codes (DTCs) stored resulting in a lit malfunction indicator light (MIL) must be failed, though setting the unset readiness flags in question shall not be a prerequisite for passing the retest.

(d) * * *

(1) If the malfunction indicator status bit indicates that the malfunction indicator light (MIL) has been commanded to be illuminated the test system shall send a Mode $03 request to determine the stored diagnostic trouble codes (DTCs). The system shall repeat this cycle until the number of codes reported equals the number expected based on the Mode 1 response. All DTCs resulting in MIL illumination shall be recorded in the vehicle test record and the vehicle shall fail the on-board diagnostic inspection.

(2) If the malfunction indicator light bit is not commanded to be illuminated the vehicle shall pass the on-board diagnostic inspection, even if DTCs are present.

* * * * *

(4) If the malfunction indicator light (MIL) does not illuminate at all when the vehicle is in the key-on/engine-off (KOEO) condition, the vehicle shall fail the on-board diagnostic inspection, even if no DTCs are present and the MIL has not been commanded on.

12. Section 85.2223 is amended by revising paragraph (a) and removing and reserving paragraph (b) to read as follows:

§ 85.2223 On-board diagnostic test report.

(a) Motorists whose vehicles fail the on-board diagnostic test described in § 85.2222 shall be provided with the on-board diagnostic test results, including the codes retrieved, the name of the component or system associated with each fault code, the status of the MIL illumination command, and the customer alert statement as stated in paragraph (c) of this section.

(b) [Reserved]

* * * * *

§ 85.2231 [Removed]

13. Section 85.2231 is amended by removing and reserving paragraph (d).

[FR Doc. 01–8276 Filed 4–4–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Thursday,
April 5, 2001

Part III

The President

Proclamation 7421—National Former Prisoner of War Recognition Day, 2001

Federal Register
Vol. 66, No. 66
Thursday, April 5, 2001

Presidential Documents

Title 3—

The President

Proclamation 7421 of April 2, 2001

National Former Prisoner of War Recognition Day, 2001

By the President of the United States of America

A Proclamation

From our earliest beginnings as a Nation, America has been blessed with citizens who have been willing to fight and die to preserve our shared ideals. We owe our freedom to men and women who have responded heroically to the call of patriotic duty. In times of peace and war, in times of great conflict, and even in peacetime, they stood tall. Facing the horrors of combat, young Americans placed themselves squarely in harm's way.

Among all these ranks of brave Americans, our living former prisoners of war form a living testament to the courage Americans have shown in defending liberty. During World War II and the conflicts in Korea and Vietnam, prisoners endured, in addition to separation from their loved ones, isolation, disease, and torture. More recently, American troops in the Persian Gulf stood bravely in the face of enemy capture and returned home with honor.

The men and women who suffered through the atrocious conditions of internment deserve our utmost gratitude and respect. Their fortitude serves as an example of placing the ideals of freedom and self-government above one's own interests. We also owe a debt of gratitude to their families for weathering agonizing uncertainty while demonstrating support for their loved ones' service to country.

In World War II, patriotic Americans stepped forward without hesitation to carry America's honor into unknown battlefields. Many thousands gave their lives as the ultimate sacrifice, both on the battlefield and in the deadly prison camps of the Pacific and Europe.

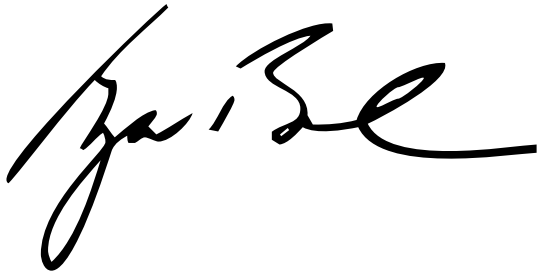
We are particularly mindful this month of anniversaries reminding us of the contributions former prisoners of war have made to our freedom. April marks the anniversary of the first return of American POWs from North Korea during Operation Little Switch. These prisoners endured bitter cold and inadequate food, clothing, and medical care in their brave effort to stop the spread of communism.

This April is also the 28th anniversary of the end of Operation Homecoming, in which our Vietnam-era POWs returned to freedom. Americans held prisoner during that war, some for as long as 9 years, were subject to torture and the horrors of isolation. They survived only through their faith, character, and patriotism.

On this date, we remember the sacrifices of those imprisoned while serving America. We remain committed to ensuring that future generations know of their heroism in order to fully appreciate their courage and resolve. Although they returned home safely, their physical and emotional scars remain as a reminder of the high price of liberty.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 2001, as National Former Prisoner of War Recognition Day. I call upon all the people of the United States to join me in remembering former American prisoners of war who suffered the hardships of enemy captivity. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of April, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–8581
Filed 4–4–01; 8:45 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 66, No. 66

Thursday, April 5, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@listserv.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, APRIL

17479–17620 2
17621–17774 3
17775–18034 4
18035–18184 5

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations
7420 18035
7421 18183

7 CFR

868 17775
916 17479
917 17479

Proposed Rules:
800 17817

12 CFR

202 17779
205 17786
230 17795
337 17621
1701 18037
1780 18040

Proposed Rules:
8 17821

14 CFR

25 17804
39 ..... 17487, 17490, 17492, 17495, 17498, 17499, 17506, 17508, 17806, 18045, 18047
71 18050

Proposed Rules:
39 17641
71 ..... 17825, 17826, 17827
73 18055

16 CFR

2 17622
3 17622
4 17622

21 CFR

172 17508
510 17510
529 17510

Proposed Rules:
192 17517
592 17517

22 CFR

41 17511

26 CFR

Proposed Rules:
1 ..... 17517, 17518
301 17518
602 17518

27 CFR

25 17809

28 CFR

16 17809

Proposed Rules:
16 28

29 CFR

Proposed Rules:
4902 17518

33 CFR

117 ..... 17512, 17810, 17811

Proposed Rules:
100 18056
165 ..... 17829, 17832

38 CFR

Proposed Rules:
3 17834
19 17840
20 17840

40 CFR

51 18156
52 ..... 17634, 17811
60 17599
70 17512
761 17602
85 18156

Proposed Rules:
52 ..... 17641, 17842
81 17647
194 18058
420 17842

42 CFR

411 17813
424 17813

Proposed Rules:
36 17657
447 17657

47 CFR

73 ..... 17638, 17814, 17815

Proposed Rules:
Ch. 1 18059
73 ..... 17843, 17844
101 18061

48 CFR

Ch. 1 17757
9 17754
14 17754
15 17754
31 17754
52 17754
1812 18051
1823 18051
1842 18053
1852 ..... 18051, 18053

Proposed Rules:
9 17758
14 17758
15 17758
31 17758
52 17758

49 CFR

533 17513

50 CFR

17.....18002
660.....17639
679.....17815

Proposed Rules:

17.....18062
223.....17659, 17845
224.....17659
600.....17668
622.....17519
635.....17520
648.....17673
660.....17681

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 5, 2001

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Onions (sweet) grown in—
- Washington and Oregon; published 3-6-01

Tomatoes grown in—
- Florida; published 3-6-01

Watermelon research and promotion plan; published 3-6-01

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:
- Colorado; published 3-6-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:
- Emergency medical services and evacuation; published 4-5-01

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
- Changes, tests, and experiments; correction; published 2-26-01

POSTAL SERVICE

Domestic Mail Manual:
- Shipping label requirements; published 3-23-01

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:
- Individual born with spina bifida whose biological mother or father is Vietnam veteran; monetary allowance criteria; published 3-6-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:
- Rinderpest and foot-and-mouth disease; disease status change—
  - South Africa; comments due by 4-10-01; published 2-9-01

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:
- Special milk, summer food service, child and adult care food, free and reduced price meals and free milk in schools programs—
  - State Medicaid and State Children's Health Insurance Program; children's eligibility information disclosure; comments due by 4-11-01; published 1-11-01

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Retained water in raw meat and poultry products; poultry chilling requirements; comments due by 4-9-01; published 1-9-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Atlantic highly migratory species—
  - Pelagic longline management; comments due by 4-9-01; published 3-30-01
- Magnuson-Stevens Act provisions—
  - Domestic fisheries; exempted fishing permits; comments due by 4-11-01; published 3-27-01
  - Foreign fishing vessels; fee schedule; comments due by 4-9-01; published 3-8-01
- Northeastern United States fisheries—
  - Spiny dogfish; comments due by 4-14-01; published 3-30-01
  - Tilefish; comments due by 4-13-01; published 2-12-01

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange Act:
- Futures commission merchants; customers' funds; opting out of segregation; comments due by 4-12-01; published 3-13-01

Commodity Futures Modernization Act of 2000; implementation:
- Trading facilities, intermediaries, and clearing organizations; new regulatory framework; comments due by 4-9-01; published 3-9-01

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):
- TRICARE program—
  - Pharmacy Benefits Program, partial implementation; and National Defense Authorization Act for Fiscal Year 2001; implementation; comments due by 4-10-01; published 2-9-01

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Washington; perchloroethylene dry cleaning facilities; comments due by 4-11-01; published 3-12-01

Air programs:
- Stratospheric ozone protection—
  - Laboratory essential uses (2001 CY); de minimis exemption; comments due by 4-12-01; published 3-13-01
  - Laboratory essential uses (2001 CY); de minimis exemption; comments due by 4-12-01; published 3-13-01

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
- Minnesota; comments due by 4-9-01; published 3-9-01
- Minnesota; correction; comments due by 4-9-01; published 3-30-01
- Utah; comments due by 4-9-01; published 3-9-01
- Washington; comments due by 4-12-01; published 3-13-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Commercial mobile radio services—
  - Spectrum aggregation limits; biennial regulatory review; comments due by 4-13-01; published 2-12-01
  - Spectrum aggregation limits; biennial regulatory review; correction; comments due by 4-13-01; published 2-15-01
- Digital television broadcasting—
  - 740-806 MHz band; conversion to digital television; comments due by 4-10-01; published 4-3-01

Digital television stations; table of assignments:
- Arkansas; comments due by 4-13-01; published 2-28-01
- California; comments due by 4-9-01; published 2-21-01
- Mississippi; comments due by 4-13-01; published 2-28-01
- Texas; comments due by 4-13-01; published 2-28-01

Radio stations; table of assignments:
- Missouri; comments due by 4-9-01; published 3-1-01
- Texas; comments due by 4-9-01; published 3-1-01

Television stations; table of assignments:
- Kansas; comments due by 4-13-01; published 2-28-01

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:
- Capital structure requirements; comments due by 4-9-01; published 3-9-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:
- Imported food products that have been refused admission into U.S.; marking requirements and reimportation prohibitions; comments due by 4-9-01; published 1-22-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Group health plans; access, portability, and renewability requirements:
- Bona fide wellness programs; comments due by 4-9-01; published 1-8-01

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S.J. Res. 6/P.L. 107–5

Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics. (Mar. 20, 2001; 115 Stat. 7)

Last List March 20, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to http://hydra.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.